



**ACT**

Government

Justice and Community Safety

## Open Access release outcome decision – Partial access granted

**Document Category:** Ministerial Briefs

**Title of document:** Minister for Justice, Consumer Affairs and Road Safety – Quarter 4 2018

**Description of the information:** Question Time and Annual Report Hearing Briefs provided to the Minister for Justice, Consumer Affairs and Road Safety between 1 September and 31 December 2018.

The original record of this document contained information the release of which would be contrary to the public interest. This information has been redacted from this publicly available version of the document for the reasons outlined below.

### Grounds for decision to withhold disclosure

It was decided certain information contained in the document would not be disclosed as it is taken to be contrary to the public interest information under Schedule 1 of the *Freedom of Information Act 2016* (the FOI Act).

The relevant ground under Schedule 1 of the FOI Act is as follows:

#### 1.2 Information subject to legal professional privilege

*Information that would be privileged from production or admission into evidence in a legal proceeding on the ground of legal professional privilege.*

Information that would reveal advice subject to legal professional privilege has been redacted.

I have also assessed the remaining information against the factors favouring disclosure and factors favouring non-disclosure in Schedule 2. On balance, I have decided that the information is in the public interest to disclose with some minor redactions.

I have included below the relevant factors I considered in making this decision.

#### 2.1 Factors favouring disclosure in the public interest

(a) *Disclosure of the information could reasonably be expected to do any of the following:*

- (i) *promote open discussion of public affairs and enhance the government's accountability;*
- (ii) *contribute to positive and informed debate on important issues or matters of public interest;*
- (viii) *reveal the reason for a government decision and any background or contextual information that informed the decision.*

I consider that the release of the ministerial briefs may be expected to help inform ongoing discussions and debate on matters of continued public importance. The disclosure of this information also helps to promote government accountability and transparency.

**2.2 Factors favouring non-disclosure in the public interest**

(a) *Disclosure of the information could reasonably be expected to do any of the following:*

(ii) *prejudice the protection of an individual's right to privacy or any other right under the Human Rights Act 2004.*

On balance, I consider the ministerial briefs to be in the public interest to release, with minor redactions applied to the personal information of an individual in keeping with their right to privacy.

**Review rights**

My decision to withhold open access information is a reviewable decision as identified in Schedule 3 of the FOI Act. You can seek an Ombudsman review of this outcome under section 73 of the Act within 20 working days from the day that my decision is published on the Justice and Community Safety Directorate website, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision, you may write to the ACT Ombudsman at:

The ACT Ombudsman  
Attention: ACT Strategy and FOI Section  
GPO Box 442  
CANBERRA ACT 2601  
Via email: [actfoi@ombudsman.gov.au](mailto:actfoi@ombudsman.gov.au)

**Further assistance**

If you have any queries regarding this Open Access release, please contact [JACSFOI@act.gov.au](mailto:JACSFOI@act.gov.au) or phone (02) 6207 2167.

**Authorised by**

*L. Callow*

Lauren Callow  
Information Officer  
2 January 2024



**ACT**  
Government

Justice and Community Safety

## OPEN ACCESS 4 2018 SCHEDULE

### PORTFOLIO: MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY

No.	Folio	Description	Date	Status	Reason for non-release or deferral
<b>Question Time Briefs - Sitting Week 18-20 September 2018</b>					
1	1	Minister for Justice, Consumer Affairs and Road Safety Question Time Index 18-20 September 2018	September	Full release	
2	2-3	Summary of Budget Initiatives	September	Full release	
3	4-6	Reducing Recidivism	September	Full release	
4	7-8	Repeal of Civil Unions Act	September	Partial release	Schedule 1, 1.2
5	9-10	Charter of rights for victims of crime	September	Full release	
6	11-12	Vilification and Discrimination	September	Full release	
7	13-15	Restorative Justice	September	Full release	
8	16-18	Justice Reinvestment	September	Full release	
9	19-22	Aboriginal and Justice Partnership	September	Full release	
10	23-24	Official Visitor Review	September	Partial release	Schedule 2,2.2(a)(ii)
11	25-26	Retirement Villages	September	Full release	
<b>Question Time Briefs – Sitting Weeks 23-25 October and 30-1 November 2018</b>					
12	27	Minister for Justice, Consumer Affairs and Road Safety Question Time Brief Index 23-25 October and 30-1 November 2018	October / November	Full release	
13	28-29	Summary of Budget Initiatives	October / November	Full release	
14	30-32	Reducing Recidivism	October / November	Full release	
15	33-34	Repeal of Civil Unions Act	October / November	Full release	
16	35-36	Charter of rights for victims of crime	October / November	Full release	
17	37-39	Vilification and Discrimination	October / November	Full release	
18	40-42	Restorative Justice	October / November	Full release	
19	43-46	Justice Reinvestment	October / November	Full release	
20	47-50	Aboriginal and Justice Partnership	October / November	Full release	
21	51-53	Official Visitor Review	October / November	Partial release	Schedule 2,2.2(a)(ii)

No.	Folio	Description	Date	Status	Reason for non-release or deferral
22	54-56	Retirement Villages	October / November	Full release	
<b>2017-18 Annual Report Hearings – 14 November 2018</b>					
23	57-58	Minister for Justice, Consumer Affairs and Road Safety – 2017-18 Annual Report Hearings Index	November	Full release	
24	59-62	Output 1.1. – Strategic and Accountability Indicators	November	Full release	
25	63	Output 1.5 – Strategic and Accountability Indicators	November	Full release	
26	64-67	Financial Statement Variance Explanations - Controlled	November	Full release	
27	68	Output 1.1 (ACT Road Safety Fund) – Financial Summary	November	Full release	
28	69-70	Output 1.1 – Policy Advice and Justice Programs Financial Summary	November	Full release	
29	71	Financial Summary – Output 1.5 – Protection of Rights	November	Full release	
30	72-74	Rollovers from 2017-18 into 2018-19 and forward years	November	Full release	
31	75-78	Staffing Profile	November	Full release	
32	79-80	JACS Staff Survey	November	Full release	
33	81-84	Bullying and harassment	November	Full release	
34	85-86	Attraction and Retention Incentives	November	Full release	
35	87-88	Voluntary Redundancies	November	Full release	
36	89-90	Procurement	November	Full release	
37	91-92	Fraud and integrity	November	Full release	
38	93	Public Interest Disclosures	November	Full release	
39	94-96	Freedom of Information Statistics (Directorate)	November	Full release	
40	97-99	Freedom of Information Statistics (whole of Government)	November	Full release	
41	100	International travel	November	Full release	
42	101-102	Work health safety performance	November	Full release	
43	103-105	Sustainability	November	Full release	
44	106-108	2017-18 Better Infrastructure Fund	November	Full release	
45	109-110	Internal Audit	November	Full release	
46	111-112	JACS Executive Retreat	November	Full release	
47	113-114	Misconduct matters	November	Full release	
48	115-118	Funding for Justice Reinvestment trials and other crime prevention initiatives	November	Full release	
49	119-126	Restorative Justice Unit Statistics for 2017-18	November	Full release	



No.	Folio	Description	Date	Status	Reason for non-release or deferral
50	127-128	Summary of Budget Initiatives	November	Full release	
51	129-131	Reducing Recidivism	November	Full release	
52	132-133	Repeal of Civil Unions Act	November	Full release	
53	134-135	Charter of rights for victims of crime	November	Full release	
54	136-138	Vilification and Discrimination	November	Full release	
55	139-141	Restorative Justice	November	Full release	
56	142-145	Justice Reinvestment	November	Full release	
57	146-152	Aboriginal and Justice Partnership	November	Full release	
58	153-155	Official Visitor Review	November	Partial release	Schedule 2,2.2(a)(ii)
59	156-158	Retirement Villages	November	Full release	
60	159-160	Status of report into PACYP undertaken by Spring Green Consulting	November	Full release	
<b>Question Time Briefs – Sitting Week 27-29 November 2018</b>					
61	161	Minister for Justice, Consumer Affairs and Road Safety Question Time Brief Index – 27-29 November 2018	November	Full release	
62	162-163	Summary of Budget Initiatives	November	Full release	
63	164-166	Reducing Recidivism	November	Full release	
64	167-168	Repeal of Civil Unions Act	November	Full release	
65	169-170	Charter of rights for victims of crime	November	Full release	
66	171-174	Vilification and Discrimination	November	Full release	
67	175-177	Restorative Justice	November	Full release	
68	178-181	Justice Reinvestment	November	Full release	
69	182-188	Aboriginal and Justice Partnership	November	Full release	
70	189-191	Official Visitor Review	November	Partial release	Schedule 2,2.2(a)(ii)
71	192-194	Retirement Villages	November	Full release	
72	195-198	Exceptions for Religious Schools in the <i>Discrimination Act 1991</i>	November	Full release	

**MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY**  
**QUESTION TIME BRIEFS**  
**18 – 20 September 2018**

<b><i>Question Time Briefs</i></b>	
1.	Summary of Budget Initiatives
2.	Reducing Recidivism
3.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws) *
4.	Graduated Licencing Scheme *
5.	Repeal of Civil Unions Act
6.	Drug Driving *
7.	Victims Charter of Rights
8.	Vilification and Discrimination
9.	Restorative Justice
10.	Justice Reinvestment
11.	Aboriginal and Justice Partnership
12.	Official Visitor Review
13.	Retirement Villages

\*In accordance with section 35 of the *Territory Records Act 2002*, this brief has been transferred to Transport Canberra and City Services (TCCS) as the current record owner. Refer to the TCCS website ([www.cityservices.act.gov.au](http://www.cityservices.act.gov.au)) for further information on the release of this brief under Open Access.

\*2018\*000083-031

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE: 2018-19 Budget Summary – Minister for Justice, Consumer Affairs and Road Safety**

**Talking points:**

Human Rights Commission

- **\$557,000** over two years will be invested to upgrade the Human Rights Commission digital capabilities and implement a single case management system.

Reducing recidivism by 25 per cent by 2025

- **\$1 million** in 2018-19 to reduce recidivism by supporting initiatives which prevent crime and address offending behaviour, including:
  - **\$84,000** Aboriginal Victim Liaison Officer for the Victims of Crime Office
  - **\$285,000** to expand the High Density Housing Community and Safety Program
  - **\$152,000** to establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process for Aboriginal and Torres Strait Islander youth in the justice system
  - **\$434,000** for the continued development of, and operationalising initiatives within the justice reinvestment program

The Government will also protect and support the victims of crime through the justice system by investing:

- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response. ACT Health will contribute \$0.184 million from the Health Central Provision to the administration of the scheme.

**Background Information**

- The ACT’s budget announcements will include initiatives relating to:
  - Better Government – Human Rights Commission digital capability;

Cleared as complete and accurate:	23/07/2018	
Cleared by:	Deputy Director-General	Ext:53504
Information Officer name:	Richard Glenn	
Contact Officer name:	Karen Schofield	Ext: 54775
Lead Directorate:	Justice and Community Safety	

- More support for families and inclusion – Reducing recidivism;
- More support for families and inclusion – Implementing the Commonwealth Redress; and
- Scheme for Institutional Child and Sexual Abuse.

Cleared as complete and accurate: 23/07/2018  
Cleared by: Deputy Director-General Ext:53504  
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Lead Directorate: Justice and Community  
Safety

**ISSUE:        REDUCING RECIDIVISM****Talking points:**

- The Government has set a goal to reduce recidivism by 25 per cent by 2025.
- Reducing recidivism in the ACT is a shared responsibility across the justice and human service system. The government will work closely with government stakeholders, the community sector, academia and those with lived experience to develop the Recidivism Plan.
- Developing a Recidivism Plan to achieve this ambitious target will require a package of work to effectively change the life trajectories of some of Canberra's most vulnerable citizens who have complex needs.
- A key contribution to the Recidivism Plan, is the four year commitment to develop a Justice Reinvestment Strategy (2014-18).
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.

Cleared as complete and accurate:	12/09/2018	
Cleared by:	Executive Director	Ext: 70522
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- In the 2018-19 budget the government provided \$0.955m of support for families to reduce their contact with the justice system.
- As part of this work, the Government will expand the High Density Housing Community and Safety Program, which facilitates programs that reduce crime and antisocial behaviour through community building at public housing sites in the ACT.
- We will also deliver a dedicated Liaison Officer through Victim Support ACT to better support Aboriginal and Torres Strait Islander victims of crime, and establish Warrumbul Court in the Children's Court to provide a culturally appropriate sentencing process to help address the overrepresentation of young Aboriginal and Torres Strait Islander people in the justice system.
- These initiatives feed into the government's broader commitment to develop a recidivism plan.
- Important to success in reducing recidivism in the ACT will be addressing the onset of offending and the cycles of offending.
- The government, community and academic advisory group that has driven the development of the JR Strategy will now be working in partnership to construct the ACT's Reducing Recidivism Plan. They will draw on the literature review recently completed by the Australian National University that examines the approaches taken in other Australian States and Territories, as well as internationally, to reduce recidivism.

### **Key Information**

- The Government traditionally measures recidivism using the Report on Government Services. ROGS measures one part of the justice system, whether a person has received a conviction in a court and whether they have received a second conviction within a two year period.
- The measure does not include other considerations such as police discretion when dealing with offenders, using diversion options (such as restorative justice) or court responses that may prove an offence but not record a conviction.
- It also doesn't measure if there is a change in the frequency or severity of offending.
- The 2017 Prisoners in Australia publication by the ABS found that 75 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory (the national average was 57 per cent).
- The ACT consistently has the lowest imprisonment rate in Australia per head of population. In 2017 the adult imprisonment rate was 141 prisoners per 100,000 a decrease from 144 prisoners per 100,000 (2016) adult population compared to the national imprisonment rate of 215.9 prisoners per 100,000 population.

Cleared as complete and accurate:	12/09/2018	
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- This means that to change our recidivism level is not a simple step or one set of initiatives, it will be about holistic change across the system and with offenders and their families to change inter-generational offending patterns.
- The government, community and academic advisory group that has driven the development of the JR Strategy will now be working in partnership to construct the ACT's Reducing Recidivism Plan.

**Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- The 2018-19 budget process provided \$0.434 for the continued development of, and operationalising of initiatives within the Justice Reinvestment Program which underpins the reducing recidivism approach. Funding will be provided to support the:
  - senior officer to progress Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for "Clean Street Time"
  - remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- \$0.285m was provided in 2018-19 budget on continuing the Ainslie Avenue based High Density Housing Program and expanding it to Illawarra Court.
- \$0.150m on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m on a Warrumbul Court Coordinator & Cultural Advisor for the Children's Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

Cleared as complete and accurate:	12/09/2018	
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Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000083-029

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: REPEAL OF CIVIL UNIONS ACT****Talking points:**

- The ACT Government is conscious that, since the Commonwealth Government amended the *Marriage Act 1961* to allow couples to marry regardless of their sex or gender, no one is now eligible to enter a Civil Union under ACT law.
- As I indicated in June during Budget Estimates hearings, the Government is presently considering whether it would be desirable to repeal the Civil Unions Act (the Act to prevent misapprehension that Civil Unions can still be validly entered or solemnised in the ACT).
- Should the Act be repealed, the Government will continue to recognise all Civil Unions that were entered into in the ACT before marriage equality (9 December 2017).
- Legislation repealing the Act would also provide a timely opportunity to update gendered references to marriage across the ACT's statutebook. Such changes would enhance the equal recognition of same-sex marriages in ACT legislation.

**Key Information**

- Civil unions offer a legally recognised relationship for same-sex couples that is to be treated identically to a marriage for the purposes of territory laws.
- [Sensitive] In light of marriage equality, there are now a number of similarities between the Marriage Act and the Civil Unions Act, such that there is a risk that a court would find that the ACT legislation to be operating inconsistently with the Commonwealth law.
- As of 5 February 2018, 54 civil unions were registered in the ACT. Fifty are still registered, one was pending termination and three have been terminated.
- During Estimates hearings on 26 June 2018, you indicated the ACT Government Solicitor (ACTGS) had advised that maintaining the *Civil Unions Act 2012* presents a risk that it could be deemed not consistent with the Commonwealth Marriage Act as that Act now covers the field.

Cleared as complete and accurate: 10/09/2018  
Cleared by: Deputy Executive Director Ext:70674  
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Safety



Sch 1 s 1.2

**Background Information**

- The *Civil Unions Act 2012* (ACT) (Civil Unions Act) was introduced to enable couples who were unable to marry their same-sex partner under the *Marriage Act 1961* (Cwth) (Marriage Act) to enter into a legally recognised relationship.
- On 8 December 2017, the Commonwealth Parliament passed the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwth) (Marriage Amendment Act). This Act amended the definition of marriage in the Marriage Act to enable same-sex couples to marry in Australia. It also introduced legal recognition of overseas same-sex marriages, including retrospective recognition of overseas same-sex marriages prior to 8 December 2017.
- Only natural persons who are not eligible to marry under the Marriage Act may enter into a civil union. Since the entry into force of the Marriage Amendment Act on 9 December 2017, persons of the same-sex have been eligible to marry under the Marriage Act. Therefore no one has been eligible to enter into a civil union since these amendments.

Cleared as complete and accurate: 10/09/2018  
Cleared by: Deputy Executive Director Ext:70674  
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Contact Officer name: Kevin Campbell Ext: 51474  
Lead Directorate: Justice and Community  
Safety

TRIM Ref: 2018/000083-037

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME****Talking points:**

- The Government is committed to introducing an ACT Rights of Victims Charter. Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma being caused.
- The Charter will outline the rights of victims of crime, the obligations justice agencies have when dealing with victims, and establish a complaints resolution process where the Charter is breached.
- The Government is working closely with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- It is important for Government to listen to what victims have to say about our criminal justice system, and I thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period from 22 June to 6 August 2018.
- Feedback on key issues received during public consultation will be provided to participants, and a draft model of the Charter is now being developed in close consultation with justice stakeholders.

**Key Information**

The Parliamentary Agreement to the 9<sup>th</sup> Legislative Assembly commits to the introduction of an ACT Rights of Victims Charter. All other states and territories in Australia have introduced victim rights as principles or guidelines. The Government seeks to build on the ACT's Human Rights framework by providing community members with actionable rights linked to an accountability mechanism.

- It is likely that the Charter will replace the governing principles for the treatment of victims of crime in the *Victims of Crime Act 1994*. Common feedback heard from victims of crime during consultations include wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions.

Cleared as complete and accurate:	06/09/2018	
Cleared by:	Executive Director	Ext: 70522
Information Officer name:	Tamsyn Harvey	
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Lead Directorate:	Justice and Community Safety	

- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.

### **Background Information**

- The development of the Charter, Government implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations, and the Disability Justice Strategy share significant interest in improving the experience of victims of crime in the justice system. The Government is considering these victim focused reforms in a cohesive way.
- The ACT has a strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory Victim of Crime Commissioner role (2010) and its integration into the Human Rights Commission (2016).
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectations that victims are central to justice processes is growing.

Cleared as complete and accurate: 06/09/2018  
Cleared by: Executive Director Ext: 70522  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Laura Pound Ext: 73997  
Lead Directorate: Justice and Community  
Safety

TRIM Ref: 2018/000083-038

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: VILIFICATION AND DISCRIMINATION****Talking points:**

- The ACT condemns vilification and discrimination. The ACT has recently expanded and strengthened anti-discrimination and vilification protections under the *Discrimination Act 1991*.

Discrimination

- In the ACT, the *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person in a range of areas of public life including education, employment and in receiving goods and services.
- Discrimination is prohibited on 24 grounds – including race, gender and sexual orientation. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.
- In August 2016, the grounds of unlawful discrimination were expanded to protect against discrimination on the basis of attributes such as religious conviction, intersex status, being a victim of domestic and family violence and disability.

Vilification

- It is also against the law to vilify a person or group of people on the grounds of race, sexuality, gender identity and HIV/AIDS status. Racial vilification was expanded in 2016 to apply to vilification on the grounds of religious conviction and disability.
- Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people. In 2016, the definition of vilification was expanded to include conduct that ‘incites revulsion’.
- If anyone is subject to vilification or discrimination in the ACT, I encourage them to contact the ACT Human Rights Commission (HRC) to talk through the complaints process.

Cleared as complete and accurate:	12/09/2018	
Cleared by:	Deputy Executive Director	Ext:
Information Officer name:	Tamsyn Harvey	
Contact Officer name:	Kevin Campbell	Ext: 51474
Lead Directorate:	Justice and Community Safety	

**Key Information**

- Changes to the *Discrimination Act 1991* in August 2016 followed recommendations of the ACT Law Reform Advisory Council (LRAC). The Justice and Community Safety Directorate (JACS) is due to begin work on the second phase of reforms to the Discrimination Act in November 2018.
- The ACT HRC is an independent agency that promotes the human rights and welfare of people in the ACT community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.
- The HRC does not presently accept complaints against members of ACT Policing about discrimination in the course of their role. As ACT Policing services are contracted from the Australian Federal Police, this would potentially contravene the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) by purporting to bind a Crown entity.
- During Estimates hearings on 26 June 2018, the Discrimination Commissioner, Ms Karen Toohey, suggested there may be scope for the ACT Legislative Assembly to legislate to allow the HRC to accept complaints against ACT Policing. JACS is presently considering this matter.
- Serious vilification is an offence under the *Criminal Code 2002*. The maximum penalty is \$7,500 (50 penalty units).

**Background Information**

- Members of the LGTBQI community experienced harassment and vilification during the 2017 marriage equality debate.
- Muslim community members have been subject to harassment and Islamophobia. In 2014, the Islamic Centre in Monash was vandalised. Houses were also letterboxed with anti-muslim material in opposition to the Gungahlin Mosque, which opened in October 2017.
- The Chinese community in Canberra has also become increasingly concerned with racially targeted crime and harassment in the Territory.
- In October 2017, three Chinese international secondary school students were assaulted at the Woden Bus interchange. ACT Policing said the attack at the Woden Bus interchange was not racially motivated. However, the local and international Chinese community felt the attacks were racial and international students were no longer safe in Canberra.
- In response to the incident, ACT policing increased patrols around bus stations and laid charges against the alleged attackers. The alleged victims of the attack received counselling. The ACT Education Directorate and ACT Policing ran a workshop on personal safety for victims of the attack and their Australian guardians. ACT Policing also reassured the community that reporting crimes or engaging with the police would not result in visa issues.
- Chinese students reported to the Canberra Times that international students continued to be racially harassed and intimidated by teenagers in Woden following the assault.

Cleared as complete and accurate: 12/09/2018  
Cleared by: Deputy Executive Director Ext:  
Information Officer name: Tamsyn Harvey  
Contact Officer name: Kevin Campbell Ext: 51474  
Lead Directorate: Justice and Community  
Safety

TRIM Ref: 2018/000083-039

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RESTORATIVE JUSTICE****Talking points:**

- Ensuring that victims of crime have the opportunity to access restorative justice if and when they need it is a Government priority.
- The *Crimes (Restorative Justice) Amendment Bill 2018* (the Bill) removes legislative barriers to referring entities making referrals to the Restorative Justice Scheme. It also includes amendments which will strengthen the Restorative Justice Unit's ability to manage family violence and sexual offences following the commencement of Phase 3.
- Phase 3 of the Restorative Justice Scheme will commence by 30 November 2018. This will mean that victims of family violence and/or sexual offences can access restorative justice and that victims will not be excluded from accessing restorative justice based on the particular offence they have experienced.
- The Restorative Justice Unit is finalising guidelines and operational manuals for the management of referrals for family violence and sexual offences. It is acknowledged that these highly sensitive matters will require additional supports and expertise for those participating in the process.
- A model of RJ that promotes a strong commitment to responsibility and accountability, educational and or therapeutic support for participants throughout the process and stringent risk management and safety planning is being adopted in the ACT.
- A significant reform introduced by the Bill allows victims to be directly referred at the post-sentence stage to RJ by the Victim of Crime Commissioner, victim liaison officers or support workers, without the offender's initial awareness or agreement. This is so that the victim can explore the potential benefits and risks of RJ without fear of coercion or influence by the offender. This will be especially important in phase three when family violence and sexual offences are referred to RJ.

Cleared as complete and accurate: 18/01/2018 Executive  
Cleared by: Director Ext:76244  
Information Officer name: Karen Greenland  
Contact Officer name: Amanda Lutz Ext:70041  
Lead Directorate: Justice and Community  
Safety

- The Bill also proposes that the threshold of responsibility for less serious offences for young people be changed to the person ‘doesn’t deny’ commission of the offence at the eligibility stage, acknowledging that many young people may be afraid to talk or are advised not to talk and make admissions upon apprehension in accordance with their legal rights.
- Changing the threshold for these offenders from ‘accepts responsibility for the offence’ to ‘doesn’t deny responsibility for the offence’ will support the referral of vulnerable young people, in particular those from the Aboriginal and Torres Strait Islander community who have historically difficult relationships with police and the courts.

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### **Key Information**

- Phase 3 commencement day will finalise the rollout of the ACT’s Restorative Justice Scheme as it was originally envisioned by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee in 2003.
- The RJU is in consultation with local support agencies such as Relationships Australia, the Domestic Violence Crisis Service, CatholicCare and Victim Support ACT to develop service provision agreements to support the rollout of Phase 3. The role of these service providers is to help prepare victims and offenders to participate in RJ conferences in ways that are safe and satisfying for all participants.
- Any person who has been impacted by an offence can seek a referral to restorative justice. Community members are invited to contact the Restorative Justice Unit on 6207 3992 to discuss referral options.

### **Background Information**

#### ***Statistical information***

- The RJ scheme involved only referrals for young people and less serious offences between 2005 and 2016. In February, 2016 the scheme began accepting referrals for adult offenders and for serious offences for adults and young people.
- As at 30 June 2018, a total of 2,255 referrals had been received by the RJU since the scheme began. This includes a total of 2,482 young people and a total of 316 adults.
- A total of 1,492 conferences had taken place.

Cleared as complete and accurate:	18/01/2018 Executive	
Cleared by:	Director	Ext: 76244
Information Officer name:	Karen Greenland	
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Lead Directorate:	Justice and Community Safety	

## QUESTION TIME BRIEF

- The overall compliance of young people with RJ agreements is 90% since the scheme began.
- The overall compliance rate of adults with RJ agreements is 83%.

Cleared as complete and accurate: 18/01/2018  
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Lead Directorate: Justice and Community  
Safety



TRIM Ref: 2018/000083-040

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: JUSTICE REINVESTMENT****Talking points:**

- The ACT government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The JR Strategy has developed a three by three approach to JR in the ACT. The three steps are:
  - Get the right people together at the right times with the information needed to make the best decisions for their community.
  - Get local data to help identify local problems and local solutions.
  - Use co-design principles to identify key programs and trials that prevent or delay people's contact with the justice system.

Cleared as complete and accurate:	07/09/2018	
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Lead Directorate:	Justice and Community Safety	

The three pathways are:

- Place based – providing crime reduction and community strengthening programs and supports in the same location as the people who need them.
  - Point in the system – providing interventions at crucial points in the justice system, for example arrest, bail and remand, where a change to that part could reduce peoples future contact with the justice system.
  - Cohort – focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to this group.
- The JR Strategy involves six key projects: Justice System Cost Model; Justice and Human services system data snapshots; Justice services and programs map; Evaluation Framework; Yarrabi Bamirr (family-centric service support model with Aboriginal and Torres Strait Islander families) and Ngurrambai (bail support program for Aboriginal and Torres Strait Islander people).
  - The JR Strategy reinforces a number of strategic cross Government initiatives including the Aboriginal and Torres Strait Islander Agreement and Justice Partnership, the Human Services Blueprint and the Blueprint for Youth Justice.

### **Key Information**

- The JR Strategy is scheduled to be presented to the Human Services and Social Inclusion subcommittee of Cabinet on 28 September 2018.
- A JR and Reducing Recidivism Forum hosted by Minister Rattenbury is scheduled to be held on 5 and 6 December 2018.
- The JR Strategy involves six key projects:
  - Yarrabi Bamirr (Ngunnawal words for ‘Walk Tall’): A family-centric service support model with Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system.
  - Ngurrambai (Ngunnawal words for ‘percieve, I see, I listen, I understand’): A bail support trial which works with Aboriginal and Torres Strait Islander people on bail to ensure compliance with bail orders.

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- Justice System Cost Model: A model which costs the individual components of the current adult and juvenile ACT Justice System from the point of apprehension to post-sentence, in order to establish a baseline cost of the ACT's Justice System.
- Justice services and programs map: A project which aimed to create an evidence base of government and community sector programs that provide services and support to people who have contact, or are at risk of having contact, with the ACT criminal justice system including victims of crime and perpetrators of crime. A decision was made in May 2018 by Minister Rattenbury to no longer invest in the development of the Programs Map.
- Justice and Human services system data snapshots provide local data to inform local solutions that change people's contact with the justice system.
- An evaluation framework consisting of program evaluations containing justice reinvestment measures.

### **Background Information**

- The 2014-15 Budget provided \$689,000 over four years, to develop a whole of government justice reinvestment approach in the ACT. This funding was provided within JACS existing resources.
- In 2016-17 \$926,000 was provided for the JR trials. The funds, from the 2016-17 Budget (\$76,000) and the CAT fund (\$850,000), were directed towards Aboriginal-run organisations, the Domestic Violence Crisis Service and ACT Policing to deliver Yarrabi Bamirr. A further \$226,000 was provided in the 2017-18 Budget to support the JR Trials.
- In the 2018-19 Budget \$434,000 was provided to continue the development of, and operationalising of initiatives within, the justice reinvestment program. Funding will be provided to support the:
  - Senior officer to progress Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for "Clean Street Time"
  - Remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The High Density Housing program also received \$285,000 in the 2018-19 Budget for six months of funding for Ainslie Avenue and 12 months funding to expand the program to Illawarra Court.
- \$0.150m on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m on a Warrumbul Court Coordinator & Cultural Advisor for the Children's Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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TRIM Ref: 2018/000083-041

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: ABORIGINAL AND JUSTICE PARTNERSHIP****Talking points:**

- The Aboriginal and Torres Strait Islander Justice Partnership demonstrates the ACT Government's commitment to improving law and justice services and outcomes for Aboriginal and Torres Strait Islander people in the ACT.
- The Partnership takes a targeted approach to addressing the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system and includes detailed actions, measures and areas of accountability.
- The three key objectives of the Partnership are to:
  - reduce over-representation by reducing recidivism and increasing access to diversionary programs
  - improve access to justice services, and
  - improve data collection and reporting.
- Some major targets under the Partnership are to:
  - reduce the daily average Aboriginal and Torres Strait Islander detainee population at the Alexander Maconochie Centre, as a percentage of the total prison population, to 10 per cent
  - reduce the over-representation of Aboriginal and Torres Strait Islander young people in the youth detention system by 20 per cent over the life of the Partnership, from a 2012 baseline figure
  - increase the number of Aboriginal and Torres Strait Islander adults and young people being referred to and accessing diversionary criminal justice system programs, from a 2013 baseline
  - manage and support stakeholders to deliver effective justice related services; and

Cleared as complete and accurate:	12/09/2018	
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- improve the collection and reporting of Aboriginal and Torres Strait Islander data by criminal justice agencies by:
- implementing data systems that are capable of collecting Aboriginal and Torres Strait Islander data and increasing access to public reports on Aboriginal and Torres Strait Islander data through better use of formal and informal communication channels.
- The Partnership consists of a total of 21 actions areas with 38 key measures that in some instances are jointly addressed by lead agencies bringing the total number of reportable action items to 79. The number of reportable actions has increased by 14 since the last quarter as the new Elected Body has reported against the measures that specifically involve the Elected Body.
- On 3 April 2018 it was agreed by the ACT Aboriginal and Torres Strait Islander Elected Body that 42 reportable action items could be closed as they had either been completed or been considered to be consistently on track over the term of the Partnership. The object of this decision was to allow reporting agencies to focus on those remaining 37 action items that still required work and attention.
- As at 28 June 2018:
  - 16 action items were considered to be on track
  - 13 actions were considered to be stalled as they were not progressing in line with the agreed timeframe; and
  - 8 action items were considered to be stopped as they had stalled considerably or were not likely to be delivered in the life of the partnership

## Key Information

- The Justice Partnership concludes at the end of 2018. At that time an analysis of each responding agencies, both government and non-government, performance against the specified actions, measures and areas of accountability will be undertaken and a comprehensive report outlining the many successes and remaining challenges from the Justice Partnership will be made available to the Minister in early 2019.

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- Commencing in January 2019 is the ACT Aboriginal and Torres Strait Islander Agreement 2019 -2028 (the Agreement). This will be a cross-directorate initiative calling on each directorate to develop and provide their own action plan for inclusion in the Agreement at four specified intervals (coinciding with ACT Aboriginal and Torres Strait Elected Body terms) over the ten year course of the Agreement.
  - Phase One – Action Plan – Jan 2019 to Jun 2020
  - Phase Two – Action Plan – Jul 2020 to Jun 2023
  - Phase Three – Action Plan – Jul 2023 to Jun 2026
  - Phase Four – Action Plan – Jul 2026 to Dec 2028
- JACS is well advanced in the development of their Justice Action Plan (Phase one) and engaging with ACT Policing, ACT Corrective Services, ACT Courts & Tribunals, Restorative Justice and Legislation, Policy and Programs Branch, and CSD’s Children and Young Peoples Service and Victim Support ACT, to establish a justice specific action plan consisting of a number of specific, measurable, achievable, relevant and trackable targets aimed at improving law and justice services outcomes for the ACT Aboriginal and Torres Strait Islander community.

### **Background Information**

- The ACT Government developed the first ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 in conjunction with the Elected Body in response to a joint report that the Attorney-General launched in 2008 by the ACT Council of Social Services/Aboriginal Justice Centre entitled *Circles of Support: Towards Indigenous Justice: Prevention, Diversion and Rehabilitation*.
- Governance arrangements under the Partnership include a Strategic Board Sub-Committee, an Advisory Group and an Aboriginal and Torres Strait Islander Caucus to oversee and drive progress.
- The Advisory Group is made up of representatives from agencies responsible for deliverables under the Partnership, including:
- JACS:
  - Corrective Services
  - ACT Courts and Tribunal
  - Legislation, Policy and Programs
  - Victim Support ACT
- Community Services Directorate

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- Children, Youth and Families
- ACT Policing
- ACT Health including
  - Mental Health, Justice Health and Alcohol and Drug Services
- Policy and Stakeholder Relations
- Legal Aid ACT
- Aboriginal Legal Service (NSW/ACT)
- ACT Aboriginal and Torres Strait Islander Elected Body.

The Caucus is a process used successfully by the Victorian Government to allow the local Aboriginal and Torres Strait Islander community to provide regular advice on the Victorian Aboriginal Justice Agreement. The process was quickly embraced by the Caucus as a platform for monitoring and contributing to the success of the Partnership.

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TRIM Ref: 2018/000083-042

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: OFFICIAL VISITOR REVIEW****Talking points:**

- The Official Visitor scheme has been in place for five years (since 1 September 2013).
- A number of reforms have changed the way Official Visitors do their work, including:
  - the rollout of the National Disability Insurance Scheme;
  - increased procedural safeguards in the *Mental Health Act 2015*;
  - the development of an ACT Inspectorate for Custodial Services and;
  - the expected ratification of the Optional Protocol for the Convention Against Torture of the Australian Government.
- In March 2017, I asked JACS to undertake a formal review (the review) of the scheme. The terms of reference of the review were drafted in consultation with the Public Trustee and Guardian, relevant directorates, members of the Official Visitor Board and the Official Visitors.
- The purpose of the review was to determine whether the Official Visitor scheme was achieving its purpose of providing independent oversight of visitable places, increasing transparency in visitable places and reporting to Government about conditions and concerns in visitable places.
- The Review commenced in May 2017. The final report was completed in November 2017. The Government has since sought the views of Official Visitors on the final report, and is considering the Review's recommendations.

**Key Information**

- The Official Visitor Scheme is primarily administered out of the office of the Public Trustee and Guardian. The Public Trustee and Guardian chairs the Official Visitor board which has statutory functions for the training, coordination and support of the official visitors.

Cleared as complete and accurate:	12/09/2018	
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Lead Directorate:	Justice and Community Safety	



- Official Visitors work with varying levels of co-operation, assistance and support from those areas of Government or community service entities that administer the visitable places where official visitors have rights of access and investigation.
- There are Official Visitors for the:
  - *Children and Young People Act 2008* (two Official Visitors, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Corrections Management Act 2007* (three Official Visitors, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Disability Services Act 1991* (two Official Visitors);
  - *Housing Assistance Act 2007* (one Official Visitor); and
  - *Mental Health Act 2015* (four Official Visitors).
- The Official Visitors for one operational Act are empowered to assist the responsible Official Visitors for other Acts if asked (under section 18 of the *Official Visitors Act 2012*).
- The review's methodology included:
  - Directly contacting 46 people and organisations including, advisory bodies, relevant Government directorates and the Human Rights Commission;
  - Sending 182 letters to registered service providers in the areas of disability, children and young people and homelessness;
  - Directly emailing detainees at the AMC; and
  - Holding forums and a range of meetings with organisations and individuals.

### **Background Information**

- An ACT Official Visitor tasked with monitoring children in custody resigned in February 2017 on the basis that his complaints were 'not being taken seriously'. The Official Visitor, Mr Bill Bashford, questioned the independence of Official Visitors who must report to the Community Services Directorate. The Official Visitor resigned over a complaint he submitted to Child and Youth Protection Service (CYPS) about a child in foster care [Sch 2 s 2.2 \(a\)\(ii\)](#) [REDACTED]. CYPS responded to the Visitor by informing him the complaint had been handled in accordance with their internal procedures. CYPS would not share any further information with the Official Visitor.
- The Community Services Directorate did not provide the Official Visitor with further information because foster care was beyond the remit of the Official Visitor's responsibility. CYPS were therefore legally restricted from sharing information with the Official Visitor.

Cleared as complete and accurate:	12/09/2018	
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Lead Directorate:	Justice and Community Safety	

TRIM Ref: 2018/000083-044

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RETIREMENT VILLAGES****Talking points:**

- I am aware of the *Greiner Review Report* on retirement villages, which was commissioned by the NSW Government.
- The *Greiner Review Report* was publicly released along with a Government response in June 2018. The report makes 17 recommendations to improve the NSW legislative framework and operational practices of the industry and regulator. The NSW Government has announced it will accept most of the recommendations, with the rest being accepted in principle.
- The ACT Government will give further consideration to the recommendations of the *Greiner Review Report*.

**Second tranche reforms**

- The Justice and Community Safety Directorate (JACS) is currently consulting key stakeholders on proposed second tranche amendments to the *Retirement Villages Act 2012* and related legislation.
- I intend to introduce the second tranche of amendments later this year.

**Key Information**

- During 2017 the Review Advisory Group reconvened to consider the second stage of recommendations.
- A sub-group of the Review Advisory Group was also convened to consider issues relating to unit titled retirement villages.
- JACS is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.

**Background Information**

- The 2016 review of the Retirement Villages Act included first and second stage recommendations.
- The review was conducted with the assistance of a Review Advisory Group of key stakeholders representing residents and operators of retirement villages, advocacy groups and other relevant bodies.

Cleared as complete and accurate: 00/09/2018  
Cleared by: Executive Director Ext: 70674  
Information Officer name: Daniel Ng  
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Lead Directorate: Justice and Community Safety

## QUESTION TIME BRIEF

- Review Advisory Group members include representatives of the ACT Retirement Village Residents Association (RVRA), ACT Property Council Retirement Living Committee, Council on the Ageing ACT (COTA) and ACT Law Society.
- The first stage reforms commenced on 16 December 2016.
- The second stage of the review included recommendations for the following:
  - removing administrative duplication under the Retirement Villages Act and *Unit Titles (Management) Act 2011* for unit titled retirement villages
  - giving further consideration to voting arrangements; and
  - giving further consideration to developing standard documents including the general inquiry document, village contract, village budget, condition report and safety and security report.
- The Legislative and Governance Forum on Consumer Affairs (CAF) recently conducted an investigation into best practice regulation of retirement villages in Australia, led by Consumer Affairs Australia and New Zealand (CAANZ).
- The CAANZ progress report, finalised and circulated in May 2018, recommended that the investigation be concluded. This report is **not** publicly available.
- The progress report uncovers common issues identified across jurisdictions, including difficulties in understanding contracts and payment, power imbalances between operators and residents, and unfair or misleading conduct by village operators.
- The CAANZ investigation has determined that States and Territories are best placed to develop best practice regulation.

Cleared as complete and accurate: 00/09/2018  
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Information Officer name: Daniel Ng  
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Lead Directorate: Justice and Community  
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**MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY**

**QUESTION TIME BRIEFS**

23-25 October 2018 and 30- 1 November 2018

<b><i>Question Time Briefs</i></b>	
1.	Summary of Budget Initiatives
2.	Reducing Recidivism
3.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws) *
4.	Graduated Licencing Scheme *
5.	Repeal of Civil Unions Act
6.	Drug Driving *
7.	Victims Charter of Rights
8.	Vilification and Discrimination
9.	Restorative Justice
10.	Justice Reinvestment
11.	Aboriginal and Justice Partnership
12.	Official Visitor Review
13.	Retirement Villages

\*In accordance with section 35 of the Territory Records Act 2002, this brief has been transferred to Transport Canberra and City Services (TCCS) as the current record owner. Refer to the TCCS website ([www.cityservices.act.gov.au](http://www.cityservices.act.gov.au)) for further information on the release of this brief under Open Access.

\*2018\*000083-031

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE:** 2018-19 Budget Summary – Minister for Justice, Consumer Affairs and Road Safety

**Talking points:**

Human Rights Commission

- **\$557,000** over two years will be invested to upgrade the Human Rights Commission digital capabilities and implement a single case management system.

Reducing recidivism by 25 per cent by 2025

- **\$1 million** in 2018-19 to reduce recidivism by supporting initiatives which prevent crime and address offending behaviour, including:
  - **\$84,000** Aboriginal Victim Liaison Officer for the Victims of Crime Office
  - **\$285,000** to expand the High Density Housing Community and Safety Program
  - **\$152,000** to establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process for Aboriginal and Torres Strait Islander youth in the justice system
  - **\$434,000** for the continued development of, and operationalising initiatives within the justice reinvestment program

The Government will also protect and support the victims of crime through the justice system by investing:

- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response. ACT Health will contribute \$0.184 million from the Health Central Provision to the administration of the scheme.

**Background Information**

- The ACT’s budget announcements will include initiatives relating to:
  - Better Government – Human Rights Commission digital capability;

Cleared as complete and accurate: 23/07/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Richard Glenn  
Contact Officer name: Karen Schofield Ext: 54775  
Lead Directorate: Justice and Community Safety

## QUESTION TIME BRIEF

- More support for families and inclusion – Reducing recidivism;
- More support for families and inclusion – Implementing the Commonwealth Redress; and
- Scheme for Institutional Child and Sexual Abuse.

Cleared as complete and accurate: 23/07/2018  
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**ISSUE:        REDUCING RECIDIVISM****Talking points:**

- The Government has set a goal to reduce recidivism by 25 per cent by 2025.
- Reducing recidivism in the ACT is a shared responsibility across the justice and human service system. The government will work closely with government stakeholders, the community sector, academia and those with lived experience to develop the Recidivism Plan.
- Developing a Recidivism Plan to achieve this ambitious target will require a package of work to effectively change the life trajectories of some of Canberra's most vulnerable citizens who have complex needs.
- A key contribution to the Recidivism Plan, is the four year commitment to develop a Justice Reinvestment Strategy (2014-18).
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.

Cleared as complete and accurate:	17/10/2018	
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- In the 2018-19 budget the government provided \$0.955m of support for families to reduce their contact with the justice system.
- As part of this work, the Government is expanding the High Density Housing Community and Safety Program, which facilitates programs that reduce crime and antisocial behaviour through community building at public housing sites in the ACT.
- We have also provided funding for a dedicated Liaison Officer through Victim Support ACT to better support Aboriginal and Torres Strait Islander victims of crime, and establish Warrumbul Court in the Children's Court to provide a culturally appropriate sentencing process to help address the overrepresentation of young Aboriginal and Torres Strait Islander people in the justice system.
- These initiatives feed into the government's broader commitment to develop a recidivism plan.
- Important to success in reducing recidivism in the ACT will be addressing the onset of offending and the cycles of offending.

**Key Information**

- The Government traditionally measures recidivism using the Report on Government Services. ROGS measures one part of the justice system, whether a person has received a conviction in a court and whether they have received a second conviction within a two year period.
- The measure does not include other considerations such as police discretion when dealing with offenders, using diversion options (such as restorative justice) or court responses that may prove an offence but not record a conviction.
- It also doesn't measure if there is a change in the frequency or severity of offending.
- The 2017 Prisoners in Australia publication by the ABS found that 75 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory (the national average was 57 per cent).
- The ACT consistently has the lowest imprisonment rate in Australia per head of population. In 2017 the adult imprisonment rate was 141 prisoners per 100,000 a decrease from 144 prisoners per 100,000 (2016) adult population compared to the national imprisonment rate of 215.9 prisoners per 100,000 population.
- This means that to change our recidivism level is not a simple step or one set of initiatives, it will be about holistic change across the system and with offenders and their families to change inter-generational offending patterns.

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- The Reducing Recidivism Advisory Group met and discussed:
  - how to define and measure recidivism in the ACT
  - our ACT data and how it will shape where we direct our efforts
  - review and confirm that the strategic framework, Building Communities Not Prisons, is an appropriate articulation of the work we will do in the Plan
  - initiatives that will change the trajectory of our most vulnerable Canberrans (and their families)

### **Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- The 2018-19 budget process provided \$0.434 for the continued development of, and operationalising of initiatives within the Justice Reinvestment Program which underpins the reducing recidivism approach. Funding will be provided to support the:
  - senior officer to progress the Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The 2018-19 Budget also provided \$0.285m to continue the Ainslie Avenue based High Density Housing Program and expanding it to Illawarra Court.
- \$0.150m for an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m for a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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TRIM Ref: 2018/000083-029

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: REPEAL OF CIVIL UNIONS ACT****Talking points:**

- Since the Commonwealth Government amended the *Marriage Act 1961* (Cwth) (Commonwealth Marriage Act) to allow couples to marry regardless of their sex or gender, no one has been eligible to enter or solemnise a Civil Union under ACT law.
- The Government has considered whether it is desirable to repeal the *Civil Unions Act 2012* to prevent misapprehension that Civil Unions can still be validly entered or solemnised in the ACT.
- Because repealing the Civil Unions Act could temporarily affect the recognition of civil unions in other states and territories, and under Commonwealth laws, we have decided not to repeal the Act at this time.
- The Government continues to recognise all Civil Unions that were entered into in the ACT before marriage equality (9 December 2017).
- The Justice and Community Safety Directorate (JACS), Access Canberra and the Office for LGBTIQ Affairs will be working together to ensure that all couples and celebrants are aware of this.
- The Government will look for future opportunities to update gendered references to marriage across the ACT's statute book. Such changes would enhance the equal recognition of same-sex marriages in ACT legislation.

**Key Information**

- Civil unions offer a legally recognised relationship for same-sex couples that is to be treated identically to a marriage for the purposes of territory laws.
- As of 20 August 2018, 53 civil unions were registered in the ACT.
- During Estimates hearings on 26 June 2018, you indicated the ACT Government Solicitor (ACTGS) had advised that maintaining the *Civil Unions Act 2012* presents a risk that it could be deemed not consistent with the Commonwealth Marriage Act as that Act now covers the field.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Deputy Executive Director Ext:70674  
Information Officer name: Daniel Ng  
Contact Officer name: Kevin Campbell Ext: 51474  
Lead Directorate: Justice and Community Safety

## Background Information

- The Civil Unions Act was introduced to enable couples who were unable to marry their same-sex partner under the Commonwealth Marriage Act to enter into a legally recognised relationship.
- On 8 December 2017, the Commonwealth Parliament passed the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwth) (Marriage Amendment Act). This Act amended the definition of marriage in the Commonwealth Marriage Act to enable same-sex couples to marry in Australia. It also introduced legal recognition of overseas same-sex marriages, including retrospective recognition of overseas same-sex marriages prior to 8 December 2017.
- Only natural persons who are not eligible to marry under the Commonwealth Marriage Act may enter into a civil union. Since the entry into force of the Marriage Amendment Act on 9 December 2017, persons of the same-sex have been eligible to marry under the Commonwealth Marriage Act. Therefore no one has been eligible to enter into a civil union since these amendments.

Cleared as complete and accurate: 15/10/2018  
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Safety

TRIM Ref: 2018/000083-037

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME****Talking points:**

- The Government is committed to introducing a Charter of Rights for Victims of Crime. Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma being caused and encourage crime to be reported. The Charter will outline the rights of victims of crime, the obligations justice agencies have when dealing with victims, and establish a complaints resolution process where the Charter is breached.
- The Government is working closely with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- It is important for Government to listen to what victims have to say about our criminal justice system, and I thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period.
- Feedback on key issues received during public consultation will be provided to participants, and a proposed model of the Charter is now being developed in close consultation with justice stakeholders.

**Key Information**

- The Parliamentary Agreement to the 9<sup>th</sup> Legislative Assembly commits to the introduction of an ACT Rights of Victims Charter. All other states and territories in Australia have introduced victim rights as principles or guidelines. The Government seeks to build on the ACT's Human Rights framework by providing community members with actionable rights linked to an accountability mechanism.
- It is likely that the Charter will replace the governing principles for the treatment of victims of crime in the *Victims of Crime Act 1994* (s4). Common feedback heard from victims of crime during consultations include wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions.

Cleared as complete and accurate: 06/09/2018  
Cleared by: Executive Director Ext: 70522  
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Safety

- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.

**Background Information**

- Public consultation on the Charter was held from 22 June to 6 August 2018.
- The development of the Charter, Government implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations, and the Disability Justice Strategy share significant interest in improving access to justice in the ACT, particularly for those most vulnerable members of our community . The Government is considering these reforms in a cohesive way.
- The ACT has a strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory Victim of Crime Commissioner role (2010) and its integration into the Human Rights Commission (2016).
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectations that victims are central to justice processes is growing.

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TRIM Ref: 2018/000083-038

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: VILIFICATION AND DISCRIMINATION****Talking points:**

- The ACT condemns vilification and discrimination.

Discrimination

- The *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person in a range of areas of public life including education, employment and in receiving goods and services.
- Discrimination is prohibited on 24 grounds – including gender and sexual orientation. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.
- In August 2016, the grounds of unlawful discrimination were expanded to protect against discrimination on the basis of attributes such as employment status, immigration status and being a victim of domestic and family violence.
- All jurisdictions' anti-discrimination laws contain general exceptions for religious schools though these do vary in scope and application.
- Section 33 of the *Discrimination Act 1991* has an exception to otherwise unlawful discrimination for religious schools which provides that it is not unlawful for a religious school to discriminate in relation to the employment of, or provision of education to, a person if this occurs in good faith to avoid injury to "the religious susceptibilities of adherents of that religion or creed."
- The ACT is not aware of any instances in which this exemption has been invoked to exclude a student from school on the basis of their sexual orientation or gender identity.
- The Government would be concerned if there have been instances of such behaviour.
- This is particularly the case, given that the Human Rights Act requires that all Territory laws be interpreted insofar as possible in a manner consistent with rights under that Act.

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Lead Directorate: Justice and Community Safety

- On 13 October 2018, Prime Minister Scott Morrison said amendments to the Commonwealth *Sex Discrimination Act* would be introduced into the Parliament to protect students from being expelled because of their sexuality.
- The Government is considering amending the Territory's *Discrimination Act* to better align the exceptions for religious schools to better align them with community expectations.

### Vilification

- It is also against the law to vilify a person or group of people on the grounds of race, sexuality, gender identity and HIV/AIDS status. Racial vilification was expanded in 2016 to apply to vilification on the grounds of religious conviction and disability.
- Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people. In 2016, the definition of vilification was expanded to include conduct that 'incites revulsion'.
- If anyone is subject to vilification or discrimination in the ACT, I encourage them to contact the ACT Human Rights Commission (HRC) to talk through the complaints process.

### **Key Information**

The Commonwealth Expert Panel to examine whether Australian law adequately protects the human right to freedom of religion delivered its report on 18 May 2018.

The ACT is considering amending the *Discrimination Act 1991* to better protect people of the LGBTIQ community.

Changes to the *Discrimination Act 1991* in August 2016 followed recommendations of the ACT Law Reform Advisory Council (LRAC). The Justice and Community Safety Directorate (JACS) is due to begin work on the second phase of reforms to the *Discrimination Act* in November 2018.

The ACT HRC is an independent agency that promotes the human rights and welfare of people in the ACT community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.

The HRC does not presently accept complaints against members of ACT Policing about discrimination in the course of their role. As ACT Policing services are contracted from the Australian Federal Police, this would potentially contravene the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) by purporting to bind a Crown entity.

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During Estimates hearings on 26 June 2018, the Discrimination Commissioner, Ms Karen Toohey, suggested there may be scope for the ACT Legislative Assembly to legislate to allow the HRC to accept complaints against ACT Policing. JACS is presently considering this matter.

Serious vilification is an offence under the *Criminal Code 2002*. The maximum penalty is \$7,500 (50 penalty units).

### **Background Information**

On 22 November 2017, former Prime Minister, Hon Malcolm Turnbull, established an Expert Panel to examine whether Australian law adequately protects the human right to freedom religion. On 18 May 2018, the Panel delivered its report to the Prime Minister.

On 9 October 2018, Fairfax Media reported that the yet-to-be published Report made recommendations regarding the ability of religious schools to discriminate against students and teachers on a range of grounds including sexuality.

However, when the recommendations were released in full it became clear that the Panel was in fact referring to existing exception provisions in the Commonwealth Sex Discrimination Act. Similar exceptions exist for religious schools in most States and Territories.

The Panel report actually recommends narrowing these exceptions so that they do not allow discrimination in relation to grounds such as pregnancy or intersex status. Nevertheless, they recommend that the exception allowing schools to discriminate on grounds of sexuality and gender identity be retained, but subject to a limitation that a school have a public policy outlining its position in relation to the matter and explaining how the policy will be enforced.

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TRIM Ref: 2018/000083-039

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RESTORATIVE JUSTICE****Talking points:**

- Ensuring that victims of crime have the opportunity to access restorative justice if and when they need it is a Government priority.
- Recent changes made by the *Crimes (Restorative Justice) Amendment Act 2018* removed legislative barriers to referring entities making referrals to the Restorative Justice Scheme. It also made amendments to strengthen the Restorative Justice Unit's ability to manage family violence and sexual offences following the commencement of Phase 3.
- Phase 3 of the Restorative Justice Scheme will commence on 1 November 2018. This will mean that victims of family violence and/or sexual offences can access restorative justice and that victims will not be excluded from accessing restorative justice based on the particular offence they have experienced.
- The Restorative Justice Unit (RJU) has finalised guidelines and is refining operational manuals for the management of referrals for family violence and sexual offences in collaboration with local counselling agencies. It is acknowledged that these highly sensitive matters will require additional supports and expertise for those participating in the process.
- A model of Restorative Justice (RJ) that promotes a strong commitment to responsibility and accountability, educational and or therapeutic support for participants throughout the process and stringent risk management and safety planning is being adopted in the ACT.
- A significant reform included in the recent amendments to the restorative justice legislation allows victims to be directly referred at the post-sentence stage to RJ by the Victim of Crime Commissioner, victim advocates and supporters or victims themselves, without the offender's initial awareness or agreement. This is so that the victim can explore the potential benefits and risks of RJ without fear of coercion or influence by the offender. This will be especially important in phase three when family violence and sexual offences are referred to RJ.

Cleared as complete and accurate: 16/10/2018  
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Safety

- The also changed the threshold of responsibility for less serious offences for young people to the person ‘doesn’t deny’ commission of the offence at the eligibility stage, acknowledging that many young people may be afraid to talk or are advised not to talk and make admissions upon apprehension in accordance with their legal rights.
- Changing the threshold for these offenders from ‘accepts responsibility for the offence’ to ‘doesn’t deny responsibility for the offence’ supports the referral of vulnerable young people, in particular those from the Aboriginal and Torres Strait Islander community who have historically difficult relationships with police and the courts.
- Accepting responsibility is still a key factor in a young person’s readiness for conference however and this is thoroughly assessed by RJU staff in the ‘suitability’ process. Young people who continue to deny responsibility for the commission of offences would have their matter returned to the referring entity as not suitable to proceed.

**Key Information**

- Phase 3 commencement day will finalise the rollout of the ACT’s Restorative Justice Scheme as it was originally envisioned by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee in 2003.
- The RJU is in consultation with local support agencies such as Relationships Australia, Menslink, Everyman Australia, the Domestic Violence Crisis Service, CatholicCare and Victim Support ACT to develop service provision agreements to support the rollout of Phase 3. The role of these service providers is to help prepare victims and offenders to participate in RJ conferences in ways that are safe and satisfying for all participants.
- Any person who has been impacted by an offence can seek a referral to restorative justice.

Cleared as complete and accurate: 16/10/2018  
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## Background Information

### *Statistical information*

- The RJ scheme involved only referrals for young people and less serious offences between 2005 and 2016. In February, 2016 the scheme began accepting referrals for adult offenders and for serious offences for adults and young people.
- As at 30 June 2018, a total of 2,255 referrals had been received by the RJU since the scheme began. This includes a total of 2,482 young people and a total of 316 adults.
- A total of 1,492 conferences had taken place.
- The overall compliance of young people with RJ agreements is 90 per cent since the scheme began.
- The overall compliance rate of adults with RJ agreements is 83 per cent.

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TRIM Ref: 2018/000083-040

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: JUSTICE REINVESTMENT****Talking points:**

- The ACT government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The JR Strategy has developed a three by three approach to JR in the ACT. The three steps are:
  - Get the right people together at the right times with the information needed to make the best decisions for their community.
  - Get local data to help identify local problems and local solutions.
  - Use co-design principles to identify key programs and trials that prevent or delay people's contact with the justice system.

Cleared as complete and accurate:	08/10/2018	
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The three pathways are:

- Place based – providing crime reduction and community strengthening programs and supports in the same location as the people who need them.
  - Point in the system – providing interventions at crucial points in the justice system, for example arrest, bail and remand, where a change to that part could reduce peoples future contact with the justice system.
  - Cohort – focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to this group.
- The JR Strategy involves six key projects: Justice System Cost Model; Justice and Human services system data snapshots; Justice services and programs map; Evaluation Framework; Yarrabi Bamirr (family-centric service support model with Aboriginal and Torres Strait Islander families) and Ngurrambai (bail support program for Aboriginal and Torres Strait Islander people).
  - The JR Strategy reinforces a number of strategic cross Government initiatives including the Aboriginal and Torres Strait Islander Agreement and Justice Partnership, the Human Services Blueprint and the Blueprint for Youth Justice.

### **Key Information**

- The JR Strategy was presented to the Human Services and Social Inclusion subcommittee of Cabinet on 28 September 2018.
- The first meeting of the Reducing Recidivism Advisory Group was held on 17 October 2018. The Group met to begin development of the Reducing Recidivism Plan which will set the strategic direction for achieving the Government’s commitment to reduce recidivism by 25 per cent by 2025.
- A JR and Reducing Recidivism Forum hosted by Minister Rattenbury is scheduled to be held on 5 and 6 December 2018.

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- The JR Strategy involves six key projects:
  - Yarrabi Bamirr (Ngunnawal words for ‘Walk Tall’): A family-centric service support model with Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system.
  - Ngurrumbai (Ngunnawal words for ‘perceive, I see, I listen, I understand’): A bail support trial which works with Aboriginal and Torres Strait Islander people on bail to ensure compliance with bail orders.

Justice System Cost Model: A model which costs the individual components of the current adult and juvenile ACT Justice System from the point of apprehension to post-sentence, in order to establish a baseline cost of the ACT’s Justice System.

- Justice services and programs map: A project which aimed to create an evidence base of government and community sector programs that provide services and support to people who have contact, or are at risk of having contact, with the ACT criminal justice system including victims of crime and perpetrators of crime. A decision was made in May 2018 by Minister Rattenbury to no longer invest in the development of the Programs Map.
- Justice and Human services system data snapshots provide local data to inform local solutions that change people’s contact with the justice system.
- An evaluation framework consisting of program evaluations containing justice reinvestment measures.

### **Background Information**

- The 2014-15 Budget provided \$689,000 over four years, to develop a whole of government justice reinvestment approach in the ACT. This funding was provided within JACS existing resources.
- In 2016-17 \$926,000 was provided for the JR trials. The funds, from the 2016–17 Budget (\$76,000) and the CAT fund (\$850,000), were directed towards Aboriginal-run organisations, the Domestic Violence Crisis Service and ACT Policing to deliver Yarrabi Bamirr. A further \$226,000 was provided in the 2017-18 Budget to support the JR Trials.
- In the 2018-19 Budget \$434,000 was provided to continue the development of, and operationalising of initiatives within, the justice reinvestment program. Funding will be provided to support the:
  - Senior officer to progress Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - Remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.

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## QUESTION TIME BRIEF

- The High Density Housing program also received \$285,000 in the 2018-19 Budget for six months of funding for Ainslie Avenue and 12 months funding to expand the program to Illawarra Court.
- \$0.150m on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m on a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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TRIM Ref: 2018/000083-041

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: ABORIGINAL AND JUSTICE PARTNERSHIP****Talking points:**

- The Aboriginal and Torres Strait Islander Justice Partnership demonstrates the ACT Government's commitment to improving law and justice services and outcomes for Aboriginal and Torres Strait Islander people in the ACT.
- The Partnership takes a targeted approach to addressing the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system and includes detailed actions, measures and areas of accountability.
- The three key objectives of the Partnership are to:
  - reduce over-representation by reducing recidivism and increasing access to diversionary programs
  - improve access to justice services, and
  - improve data collection and reporting.
- Some major targets under the Partnership are to:
  - reduce the daily average Aboriginal and Torres Strait Islander detainee population at the Alexander Maconochie Centre, as a percentage of the total prison population, to 10 per cent
  - reduce the over-representation of Aboriginal and Torres Strait Islander young people in the youth detention system by 20 per cent over the life of the Partnership, from a 2012 baseline figure
  - increase the number of Aboriginal and Torres Strait Islander adults and young people being referred to and accessing diversionary criminal justice system programs, from a 2013 baseline
  - manage and support stakeholders to deliver effective justice related services; and

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- improve the collection and reporting of Aboriginal and Torres Strait Islander data by criminal justice agencies by
  - i. implementing data systems that are capable of collecting Aboriginal and Torres Strait Islander data and increasing access to public reports on Aboriginal and Torres Strait Islander data through better use of formal and informal communication channels.
- The Partnership consists of a total of 21 actions areas with 38 key measures that in some instances are jointly addressed by lead agencies bringing the total number of reportable action items to 79. The number of reportable actions has increased by 14 since the last quarter as the new Elected Body has reported against the measures that specifically involve the Elected Body.
- On 3 April 2018, it was agreed by the ACT Aboriginal and Torres Strait Islander Elected Body that 42 reportable action items could be closed as they had either been completed or been considered to be consistently on track over the term of the Partnership. The object of this decision was to allow reporting agencies to focus on those remaining 37 action items that still required work and attention.
- As at September 2018:
  - 30 action items were considered to be on track
  - 11 actions were considered to be stalled as they were not progressing in line with the agreed timeframe; and
  - two actions were considered to be stopped or stalled
  - five action items were considered to be stopped as they had stalled considerably or were not likely to be delivered in the life of the partnership.

**Key Information**

- The Justice Partnership concludes at the end of 2018. At that time an analysis of each responding agencies, both government and non-government, performance against the specified actions, measures and areas of accountability will be undertaken and a comprehensive report outlining the many successes and remaining challenges from the Justice Partnership will be made available to the Minister in early 2019.
- Commencing in January 2019 is the ACT Aboriginal and Torres Strait Islander Agreement 2019 -2028 (the Agreement). This will be a cross-directorate initiative calling on each directorate to develop and provide their own action plan for inclusion in the Agreement at four specified intervals (coinciding with ACT Aboriginal and Torres Strait Elected Body terms) over the ten year course of the Agreement.
  - Phase One – Action Plan – Jan 2019 to Jun 2020
  - Phase Two – Action Plan – Jul 2020 to Jun 2023
  - Phase Three – Action Plan – Jul 2023 to Jun 2026
  - Phase Four – Action Plan – Jul 2026 to Dec 2028.
- The Justice and Community Safety Directorate (JACS) is well advanced in the development of their Justice Action Plan (Phase one) and engaging with ACT Policing (ACTP), ACT Corrective Services (ACTCS), ACT Courts & Tribunal (ACTCT), Restorative Justice Unit and Legislation, Policy and Programs Branch (LPP), and the Community Services Directorate's (CSD) Children and Young Peoples Service and Victim Support ACT, to establish a justice specific action plan consisting of a number of specific, measurable, achievable, relevant and trackable targets aimed at improving law and justice services outcomes for the ACT Aboriginal and Torres Strait Islander community.

**Background Information**

- The ACT Government developed the first ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 in conjunction with the Elected Body in response to a joint report that the Attorney-General launched in 2008 by the ACT Council of Social Services/Aboriginal Justice Centre entitled *Circles of Support: Towards Indigenous Justice: Prevention, Diversion and Rehabilitation*.
- Governance arrangements under the Partnership include a Strategic Board Sub-Committee, an Advisory Group and an Aboriginal and Torres Strait Islander Caucus to oversee and drive progress.
- The Advisory Group is made up of representatives from agencies responsible for deliverables under the Partnership, including:

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- JACS:
  - ACTCS
  - ACTCT
  - LPP
  - Victim Support ACT
- CSD:
  - Children, Youth and Families
- ACTP
- Canberra Health Services including
  - Mental Health, Justice Health and Alcohol and Drug Services
- Policy and Stakeholder Relations
- Legal Aid ACT
- Aboriginal Legal Service (NSW/ACT)
- ACT Aboriginal and Torres Strait Islander Elected Body.

The Caucus is a process used successfully by the Victorian Government to allow the local Aboriginal and Torres Strait Islander community to provide regular advice on the Victorian Aboriginal Justice Agreement. The process was quickly embraced by the Caucus as a platform for monitoring and contributing to the success of the Partnership.

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TRIM Ref: 2018/000083-042

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: OFFICIAL VISITOR REVIEW****Talking points:**

- The Official Visitor scheme has been in place for five years (since 1 September 2013).
- A number of reforms have changed the way Official Visitors (OVs) do their work, including:
  - the rollout of the National Disability Insurance Scheme;
  - increased procedural safeguards in the *Mental Health Act 2015*;
  - the development of an ACT Inspectorate for Custodial Services and;
  - the expected ratification of the Optional Protocol for the Convention Against Torture of the Australian Government.
- In March 2017, I asked the Justice and Community Safety Directorate (JACS) to undertake a formal review (the review) of the scheme. The terms of reference of the review were drafted in consultation with the Public Trustee and Guardian (PTG), relevant directorates, members of the Official Visitor Board (the Board) and the OVs.
- The purpose of the review was to determine whether the Official Visitor scheme was achieving its purpose of providing independent oversight of visitable places, increasing transparency in visitable places and reporting to Government about conditions and concerns in visitable places.
- The Review commenced in May 2017. The final report was completed in November 2017. The Government has since sought the views of OVs on the final report, and is continuing to consider the Review's recommendations.
- The review found that OVs are valued and trusted, particularly around the way they assist eligible people to resolve day to day issues.
- However, the consultation identified that there is no clarity or shared understanding about the role of the OVs even amongst the OVs themselves.

Cleared as complete and accurate:	12/10/2018	
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- OVs are seen as having little influence in identifying and contributing to improvements in systemic issues. Their role in the ACT's rights protection statutory oversight framework is not clear.
- It was also evident that OVs require more support in the form of induction, training and professional development (including debriefing), and guidelines about performing their role. The review identified some clear areas for improvement to the scheme with recommendations relating to governance, the OVs mandate, recruitment, workloads, and accountability measures
- Key amongst these recommendations was a proposal to relocate the administrative centre of OVs from the PTG to the ACT Human Rights Commission (HRC), and appoint a full time OV Coordinator to address governance, administrative, communication and capacity development needs.

#### Next steps

- Before the end of the year, JACS will coordinate a cross government working group to consider the recommendations and implementation issues, to inform Government's consideration of its response to the review.

#### Key Information

- The Official Visitor Scheme is primarily administered out of the office of the PTG. The PTG chairs the Board which has statutory functions for the training, coordination and support of the official visitors.
- Official Visitors work with varying levels of co-operation, assistance and support from those areas of Government or community service entities that administer the visitable places where official visitors have rights of access and investigation.

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- There are OV's for the:
  - *Children and Young People Act 2008* (two OV's, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Corrections Management Act 2007* (three OV's, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Disability Services Act 1991* (two OV's);
  - *Housing Assistance Act 2007* (one OV); and
  - *Mental Health Act 2015* (four OV's).
- The OV's for one operational Act are empowered to assist the responsible OV's for other Acts if asked (under section 18 of the *Official Visitors Act 2012*).
- The review's methodology included:
  - Directly contacting 46 people and organisations including, advisory bodies, relevant Government directorates and the HRC;
  - Sending 182 letters to registered service providers in the areas of disability, children and young people and homelessness;
  - Directly emailing detainees at the Alexander Maconochie Centre; and
  - Holding forums and a range of meetings with organisations and individuals.

### **Background Information**

- An ACT OV tasked with monitoring children in custody resigned in February 2017 on the basis that his complaints were 'not being taken seriously'. The OV, Mr Bill Bashford, questioned the independence of OV's who must report to the Community Services Directorate (CSD). The OV resigned over a complaint he submitted to Child and Youth Protection Service (CYPS) about a child in foster care **Sch 2 s 2.2 (a)(ii)**. CYPS responded to the Visitor by informing him the complaint had been handled in accordance with their internal procedures. CYPS would not share any further information with the Official Visitor.
- CSD did not provide the OV with further information because foster care was beyond the remit of the OV's responsibility. CYPS were therefore legally restricted from sharing information with the OV.
- Due to competing priorities, the implementation of the Government's response to the OV review has not been progressed, however JACS is keen to commence this work before the end of the year, with a view to finalising work on the review by mid 2019.

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TRIM Ref: 2018/000083-044

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RETIREMENT VILLAGES****Talking points:**

- The *Retirement Villages Legislation Amendment Bill 2018* (the Bill) is scheduled for introduction in the October 2018 sittings.
- The Bill implements a second tranche of recommendations which came out of the 2015-16 review of the *Retirement Villages Act 2012*.
- The Bill makes a range of amendments which will:
  - remove administrative duplication and streamline budget processes for unit titled retirement villages under the Retirement Villages Act and the *Unit Titles (Management) Act 2011*
  - restore a default voting procedure of ‘one vote per unit’. Individual villages will be able to restore a ‘one vote per person’ voting procedure by passing a special resolution.
  - provide access to an enforceable conciliation process to manage complaints about service provision under the Retirement Villages Act through the Human Rights Commission.
  - clarify the definition of the terms ‘capital item’ and ‘capital replacement’.
  - allow sellers of units in unit-titled retirement villages by allowing certain due-diligence documents to be provided at a later stage of the sales process. Failure to provide these documents within the required timeframes is a strict liability offence carrying a maximum penalty of ten penalty units.
- The Bill has been developed with the assistance of the Review Advisory Group – a Group of key stakeholders which represents residents and operators of retirement villages, advocacy groups and other relevant bodies. It includes members of the ACT Retirement Villages Residents Association, the ACT Property Council Retirement Living Committee, the Human Rights Commission, Access Canberra, the Council on the Ageing ACT, representatives of unit-titled retirement villages and the ACT Law Society.

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- The Government has conducted targeted stakeholder consultation on the Bill.
- Officers of the Justice and Community Safety Directorate (JACS) met with residents of IRT Kangara Waters, Goodwin Monash and Bellerive Retirement Village to discuss the contents of the Bill. Approximately 100 people participated in these consultation meetings.
- Nine written submissions were received about the contents of the Bill. Feedback from this consultation informed the development of the legislation.
- Definitions of capital maintenance and capital replacement were a major area of concern in the RVA Review and the targeted consultation with retirement villages. Commencement of the Bill has been delayed to allow time for guidelines addressing the distinction between capital maintenance and capital replacement to be finalised.

### Greiner Review

- I am aware of the *Greiner Review Report* on retirement villages, which was commissioned by the NSW Government.
- The *Greiner Review Report* was publicly released along with a Government response in June 2018. The report makes 17 recommendations to improve the NSW legislative framework and operational practices of the industry and regulator. The NSW Government has announced it will accept most of the recommendations, with the rest being accepted in principle.
- The ACT Government will give further consideration to the recommendations of the *Greiner Review Report*.

### **Key Information**

- The Review Advisory Group reconvened in 2017 to consider the second stage of recommendations. A sub-group was also convened to consider issues relating to unit-titled retirement villages.
- JACS is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.

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Safety



## Background Information

- The 2016 review of the Retirement Villages Act included first and second stage recommendations. The review was conducted with the assistance of the Review Advisory Group.
- The first stage reforms commenced on 16 December 2016.
- The Legislative and Governance Forum on Consumer Affairs (CAF) recently conducted an investigation into best practice regulation of retirement villages in Australia, led by Consumer Affairs Australia and New Zealand (CAANZ).
- The CAANZ progress report, finalised and circulated in May 2018, recommended that the investigation be concluded. This report is **not** publicly available.
- The progress report uncovers common issues identified across jurisdictions, including difficulties in understanding contracts and payment, power imbalances between operators and residents, and unfair or misleading conduct by village operators.
- The CAANZ investigation has determined that States and Territories are best placed to develop best practice regulation.

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**ACT**  
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Justice and Community Safety

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**MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY**

**2017-18 Annual Report Hearings**

**14 November 2018 – 11:00am to 12:00pm**

**Strategic and Accountability Indicators**

1. Output Class 1.1 – Policy Advice and Justice Programs (LPP)

2. Output Class 1.5 – Protection of Rights

**Output Class Financial Summaries**

3. Financial Statement Variance Explanations - Controlled

4. Output Class 1.0 Justice Services

5. Output 1.1 – Policy Advice and Justice Programs (LPP)

6. Output 1.5 – Protection of Rights

**CORPORATE**

7. Rollovers from 2017-18 into 2018-19

8. Staffing Profile (MJCARS & AG portfolios)

9. JACS Staff Survey (MJCARS & AG portfolios)

10. Bullying and Harassment (MJCARS & AG portfolio)

11. Special Employment Arrangements and Attraction and Retention Incentives (whole of Directorate)

12. Voluntary redundancies (whole of Directorate)

13. Procurement

14. Fraud and Integrity (whole of Directorate)

15. Public Interest Disclosures (whole of Directorate)

16. Freedom of Information statistics (whole of Directorate)

17. Freedom of Information (whole of Government)

18. Travel undertaken by Directorate Staff (whole of Directorate)

19.	Work, Health and Safety Performance (whole of Directorate)	58
20.	JACS Sustainability (whole of Directorate)	
21.	JACS Better Infrastructure Fund (BIF) (former CUP)	
22.	Internal Audit	
23.	JACS Executive Retreat	
24.	Misconduct Matters	
<b><u>Annual Report Briefs and QTBs</u></b>		
25.	Funding for Justice Reinvestment and other crime prevention initiatives	
26.	Indigenous Justice Program and Recidivism Targets	
27.	Restorative Justice Statistics	
28.	Summary of Budget Initiatives (QTB)	
29.	Reducing Recidivism (QTB)	
30.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws) (QTB) *	
31.	Graduated Licencing Scheme – (QTB) *	
32.	Repeal of Civil Unions Act (QTB)	
33.	Drug Driving (QTB) *	
34.	Charter of Rights for Victims of Crime (QTB)	
35.	Vilification and Discrimination (QTB)	
36.	Restorative Justice (QTB)	
37.	Justice Reinvestment (QTB)	
38.	Aboriginal and Justice Partnership (QTB)	
39.	Official Visitor Review (QTB)	
40.	Retirement Villages (QTB)	
41.	Status of report into PACYP undertaken by Green Consulting	

TRIM Ref: JACS2018/1130-014-002

**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety

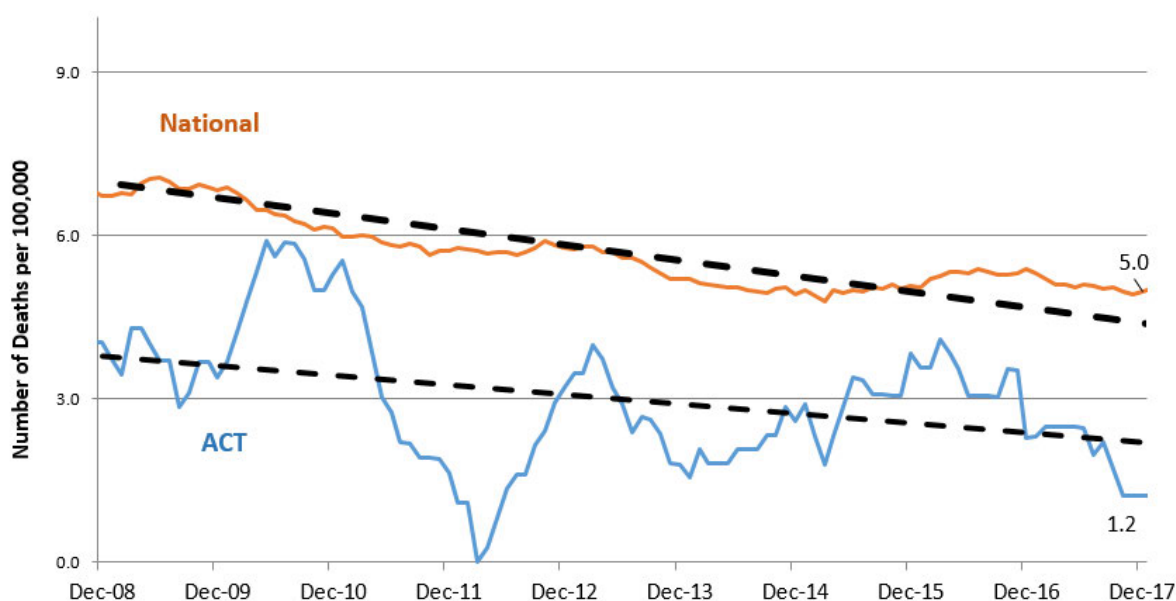
**ISSUE: OUTPUT 1.1 – STRATEGIC AND ACCOUNTABILITY INDICATORS**

The following pages of the 2017-2018 Justice and Community Safety Directorate (JACS) Annual Report (AR) reference Output 1.1 Policy Advice and Justice Programs’s Performance Analysis – pages 33 to 52, and Accountability Indicators – page 346. The major influences leading to variances from the 2017-2018 Original Target to the 2017-2018 Actual are explained in this brief.

**Talking points:**

Strategic Indicator – Annual number of road fatalities per 100,000 population

**Figure 1 Annual number of road fatalities per 100,000 population to December 2017**



Source: Bureau of Infrastructure, Transport and Regional Economics (December 2017).

Note: 1 The annual number of road fatalities per 100,000 population allows jurisdictions to compare the road safety performance of their state and territory and is used at the national level to monitor road safety performance.

- In 2017-2018, the ACT continued to maintain a lower number of road fatalities per capita than the national average, with 1.22 fatalities per 100,000 population, compared with 4.98 road fatalities per 100,000 people nationally.

Cleared as complete and accurate:	07/11/2018	
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- The ACT continues to strive to improve road safety for all road users, with a strong focus on the Vision Zero philosophy under the Safe System Framework, an approach which is consistent nationally.
- A Safe System approach ensures that the forces in collisions do not exceed the limits of human tolerance. Speeds must be managed so that humans are not exposed to impact forces beyond their physical tolerance. An evaluation of the ACT Speed Camera System is currently underway which will include strategic advice on the best way to maintain safe speeds on ACT roads.
- To further investigate options to meet this target, ACT fatal crash data from 2007-2018 is currently being evaluated based on a Safe System approach. The aim of this report is to determine where gaps in the system could be addressed to reduce deaths and serious injury within the ACT. The outcome of the Safe System evaluation will be delivered in late 2018.

#### *Road safety commitments in the ACT*

- The Government remains committed to implementing programs and policies that reduce the number of deaths and life changing injuries that occur on our roads.
- The Government's key achievements during the reporting period include the development of the Road Safety Education Strategy, commencement of a review of the graduated licencing scheme, the expansion of the Active Street program, implementation of the minimum passing distance legislation for overtaking cyclists and the completion of a trial of motorcycle lane filtering.

#### Accountability Indicator – Proportion of surveyed users of restorative justice programs satisfied with service received (2017-18 AR, page 346)

- Participants of restorative justice processes continue to report very high levels of satisfaction in their survey responses. The Restorative Justice Unit's 2017-2018 performance target of 98 % of users being satisfied with the service they received has been exceeded.
- In 2017-2018, a total of 207 surveys were completed by offenders (66), their victims (76) and in most circumstances, a main supporter for each (65). Their responses informed the results.

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- Nine core survey questions encapsulate the performance measure target and results for 2017-2018, revealing a total of 98 per cent overall satisfaction with the process:
  - 99 per cent of respondents felt they were treated with respect;
  - 98 per cent of respondents felt they were able to have their say;
  - 96 per cent of respondents did not feel pressured to participate;
  - 99 per cent of respondents felt the process respected their rights;
  - 95 per cent of respondents felt they were able to have their say in the outcome;
  - 98 per cent of respondents felt the process was fair to them;
  - 100 per cent of respondents felt the process was fair for the offenders;
  - 99 per cent of respondents would participate in the process again; and
  - 99 per cent of respondents would recommend the process to someone else.
- These survey outcomes reinforce the value of restorative justice processes as part of the justice system and the importance of building on the success of the existing program.

Accountability Indicator – Number of initiatives that reduce regulatory burden (2017-2018 AR, page 346)

- The indicator, which commenced in the 2014-2015 year and supports the Government’s commitment to reduce red tape, identifies the number of initiatives which contribute to this commitment. The target for 2017-2018 was two initiatives and the result was five initiatives.
- These were amendments to:
  - Gaming Machine Amendment Bill 2017 – reduced red tape for small and medium clubs by making it easier to deal with their tax liabilities. Clubs eligible for the rebate will be able to lodge quarterly gaming machine tax payments and make quarterly payments to the Problem Gambling Assistance Fund, should they choose. These changes will help eligible clubs to manage their cash flows.

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- Justice and Community Safety Legislation Amendment Bill 2017 (No 2) – reduced red tape through:
  - Co-operatives National Law (ACT) Act – making it easier to update fees;
  - Coroners Act – removing the automatic requirement for an inquest;
  - Road Transport (Offences) Regulation – removes an unnecessary step in relation to the vehicle transfer process; and
  - Residential Tenancies Act – allowing electronic lodgement of rental bonds.
- Courts and Other Justice Legislation Amendment Bill 2018 – reduced red tape that prevents people with disability from being included in a jury, by requiring the Court to make orders for support to be given to a person to enable them to participate; and simplifying the jury roll and empanelment processes.
- Residential Tenancies Amendment Bill 2018 – reduced the regulatory burden on tenants by replacing the self-executing conditional termination and possession orders (CTPOs) with a new order called a ‘payment order’ to help manage rental arrears.
- Prostitution Amendment Bill 2018 – reduced red tape for sole operator sex workers by removing the requirement for them to register annually with Access Canberra.

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**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety**ISSUE: 1.5 – Strategic and Accountability indicators****Context**

Pages 91 and 92 of the 2017-18 Human Rights Commission Annual Report provides information about funding and performance of Output Class 1.5 – Protection of Rights. The major influences leading to variances from the 2017-18 Original Target to the 2017-18 Actual are explained in this brief.

**Talking points:**

- The Commission met or exceeded its targets across a range of accountability indicators.
- 67 community engagement activities exceeded the target of 30 in the reporting period, significantly due to increased community demand since the merger of the HRC, Public Advocate and Victims of Crime Commissioner in 2016. Reflecting this need, the Commission has changed the target to 50 in 2018-19.
- Complaint Handling – The Commission recorded a 15% above target outcome for complaints concluded within Commission standards. This is due to improved complaint handling processes including increased attention to early resolution and ongoing review and streamlining of handling processes. Given this positive response, the Commission will consider if this target should be increased in future years.
- Public Advocate – The proportion of client survey respondents who reported a high level of satisfaction for advocacy services was 11% above target. Given this positive response, the Commission will consider if this target should be increased in future years.
- Public Advocate – The proportion of individuals brought to the attention of the Public Advocate for whom direct advocacy is provided (30%) also exceeded the target (25%). Given this positive outcome, the Commission will consider if this target should be increased in future years.

Cleared as complete and accurate:	08/11/2018	
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TRIM Ref: \*2018\*1130-009-001

**Portfolio/s:** JACS Ministers**ISSUE: Financial Statement Variance Explanations – Controlled (Directorate)****Context:**

This brief explains the Justice and Community Safety (JACS) Directorate 2017-18 Operating Statement (refer to Annual Report 2017-18, page 228).

**Talking points:**2017-18 Budget to 2017-18 Actual Variance Explanation**Revenue**

- Total Income for 2017-18 of \$305.3m was \$3.2m lower than the original budget mainly due to lower:
  - *Controlled Recurrent Payments (CRP)*: the decrease of **\$13.4m** mainly due to
    - rolled over funding to 2018-19 (**\$10.6m**) relating to the delays in Eastman Retrial proceedings (\$2.9m), revised timing of the Natural Disaster Resilience Program (\$1.3m), the remediation for Belconnen Fire and Ambulance station (\$1.1m) which was transferred to Chief Minister, Treasury and Economic Development Directorate (CMTEDD) and other recurrent initiatives (\$5.3m);
    - savings associated with the delay in the construction of the new ACT Courts Public Private Partnership (PPP) contract (**\$5.7m**);
    - approved FMA instruments (**\$4.9m**) including:
      - s14 funding re-directed to Capital Injections for Courts PPP project (\$3.5m); and
      - s16 Administrative Arrangements (AA) Transfers (totalling \$1.4m) including the Greyhound Racing Grant Provision to CMTEDD (\$1.0m) and Office of Coordinator General Family Safety (OCGFS) function to Community Services Directorate (CSD) (\$1.3m) being partially offset by transfer of *Better services in your community – More transparent government* from CMTEDD to JACS (\$1.0m).

Cleared as complete and accurate: 01/11/2018  
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These are partially offset by FMA s16B roll-over funding from 2016-17 to 2017-18 (**\$4.5m**) and 2<sup>nd</sup> appropriation approved in 2017-18 (**\$3.3m**).

The decrease in the above revenue is largely offset by higher own source revenue and gains (**\$10.2m**) in 2017-18 compared to original budget:

- *User Charges*: the increase of \$3.2m mainly relating to higher government solicitor client funded services revenue (\$3.8m) which is partially offset by lower Emergency Services Agency (ESA) Ambulance and Non Inpatient Revenue (\$0.7m);
- *Other Revenue*: the increase of \$1.9m mainly relating to higher ESA cost recovery associated with overseas deployments and higher Commonwealth grants;
- *Resources received free of charge*: the increase of \$2.7m mainly due to new payment arrangement for workers' compensation premium in 2017-18; and
- *Other Gains*: the increase of \$2.3m predominately due to the contribution to the construction and fitout for the hangar upgrade at the helicopter base in Hume in 2017-18.

## Expenditure

- Total Expenditure of \$336.1m in 2017-18 was \$3.6m lower than original budget mainly due to lower:
  - *Superannuation Expenses*: the decrease (\$1.1m) is mainly due to staff members retiring from the more expensive superannuation schemes;
  - *Supplies and Services*: the decrease (\$5.0m) is mostly due to net rollovers of funding (\$4m); AA transfer of the OCGFS budget to CSD (\$0.6m); Courts PPP saving (\$0.9m) and estimated outcome adjustments which are slightly offset by 2017-18 Budget Review initiatives (\$0.7m);
  - *Depreciation and Amortisation*: the decrease (\$6.1m) is mainly due to revised timing for completion of capital works projects and delay in the construction of the new Courts' PPP project; and
  - *Borrowing Costs*: the decrease (\$5.3m) is mainly due to saving associated with the delay in Courts PPP project.
  - *Grants and Purchased Services*: the decrease (\$0.3m) is mainly due to rolled over funding for the Natural Disaster Resilience Program (NDRP)

Cleared as complete and accurate: 01/11/2018

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to 2018-19, partially offset by higher level of grant payments to community sector organisations.

The decrease in the above expenses were partially offset by higher expenses in:

- *Employee Expenses*: the increase of \$11.8m is mainly due to new mid-year review initiatives funding (\$2.5m), higher workers compensation premium costs (\$3.2m), higher wages and salaries expenses associated with client funded services for the ACT Government Solicitor's office (\$3.8m), wages agreements and remuneration tribunal increases (\$1.8m) and s16b rollover from 2016-17 to 2017-18 (\$0.7m); and
- *Other Expenses*: the increase of \$2.4m is mainly due to the transfer of the Belconnen Fire and Ambulance Station to CMTEDD in 2017-18.

### 2017-18 Actual to 2016-17 Actual Variance Explanation

#### **Revenue**

- Total Income increase of **\$11.7m** in the 2017-18 actual from the 2016-17 actual is mainly due to higher:
  - *Controlled Recurrent Payments (CRP)*: the increase of \$14.5m mainly due to 2017-18 new and mid-year initiatives funding (\$15.6m), wages agreements increase and indexation (\$4.8m), partially offset by funding transferred to 2018-19 (\$4.6m) and AA transfer of the OCGFS function to CSD from 1 July 2017 (\$1.3m).
  - *Other Revenue*: the increase of \$2.4m mainly relates to ESA cost recovery associated with overseas deployments and higher Commonwealth Grants.

The increase in above revenue is partially offset by lower revenue in:

- *Resources received free of charge*: the decrease of \$3.2m mainly relating to workers' compensation supplementation associated with lower premium rate driven by better claim performance; and
- *Other Gains*: the decrease of \$1.7m predominately relates to the recognition in 2016-17 of a leasehold asset for 2 Constitution Avenue (\$3.4m) which was partially offset by the contribution to the construction and fitout for the hangar upgrade at the helicopter base in Hume (\$2.2m) in 2017-18.

**Expenditure**

- Total Expenditure - the increase of \$15.3m in 2017-18 actual from the 2016-17 actual is mainly due to higher:
  - *Employee Expenses*: the increase (\$7.3m) is mainly due to wages agreements increases and indexation (\$4.1m); additional staffing from client funded services; increased workload and other activities (\$3.4m);
  - *Superannuation Expenses*: the increase (\$1.2m) primarily relates to wage agreement increases and indexation (\$0.5m), additional staffing (\$0.4m) and mid-year budget review initiatives (\$0.3m);
  - *Supplies and Services*: the increase (\$5.3m) is primarily due to higher Information Communication Technology (ICT) support and related services costs (\$2.5m); rent and outgoings expenses (\$1.3m), and service agreements expenses to Commonwealth and community sector organisations (\$1.3m);
  - *Grants and Purchased Services*: the increase (\$2.1m) is mainly due to higher grant payments to community sector organisations (\$0.9m), Natural Disaster Resilience Program (\$0.7m) and other initiatives (\$0.5m).
  - *Other Expenses*: the increase (\$1.5m) is mainly due to the loss (\$3.3m) arising from the land transfer of the old Belconnen Fire and Ambulance Station to CMTEDD which is partially offset by lower provision and impaired ambulance debts (\$1.7m).

The increase in the above expenses were partially offset by lower Depreciation and Amortisation(\$2.0m) mainly due to the old Belconnen Fire and Ambulance Stations being fully depreciated in 2016-17.



TRIM Reference: JACS2018/1130-009-005

**Portfolio/s:** Attorney-General

**ISSUE: Output 1.1 – Policy Advice and Justice Programs Financial Summary**

**Context:**

Page 346 of the 2017-18 Justice and Community Safety Directorate Annual Report provides Total Cost and Controlled Recurrent Payments (CRP) for Output 1.1, Policy Advice and Justice Programs. The major influences leading to variances from the 2017-18 Original Target to the 2017-18 Actual are explained in this brief.

**Talking points:**

**Output 1.1 Policy Advice and Justice Programs**

	<b>2017-18 Original Target</b>	<b>2017-18 Actual \$'000</b>	<b>YTD Variance %</b>
<b>Total Cost (\$'000)</b>	23,665	21,624	(9%)
<b>Controlled Recurrent Payments (\$'000)</b>	21,965	19,769	(10%)

- *Total Cost:* the favourable variance of \$2.0m between the Original Target and the 2017-18 Actual is mainly due to:
  - net roll-over funding (\$1.9m) to 2018-19 primarily due to revised timing of the Natural Disaster Resilience Program (\$1.3m); and
  - funding transfers of the Coordinator-General for Family Safety function to Community Services Directorate (\$1.3m).

These are partially offset by higher costs relating to:

- 2017-18 Mid-year Budget Review initiatives (\$0.7m) including Commonwealth Redress Scheme (\$0.3m), Royal Commission Implementation (\$0.2m) and Drug and Alcohol Court Development and Design (\$0.2m);
  - Commonwealth funded legal assistance services (\$0.3m);
  - wages agreements increase (\$0.2m) and related pressures to deliver government priorities.
- *Controlled Recurrent Payments:* the variance of \$2.2m between the Original Target and the 2017-18 Actual is mainly due to:

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- net roll-over funding (\$1.9m) to 2018-19 primarily due to revised timing of the Natural Disaster Resilience Program (\$1.3m); and
- funding transfers of the Coordinator-General for Family Safety function to Community Services Directorate (\$1.3m).

These are partially offset by higher costs relating to:

- 2017-18 Mid-year Budget Review initiatives (\$0.7m) including Commonwealth Redress Scheme (\$0.3m), Royal Commission Implementation (\$0.2m) and Drug and Alcohol Court Development and Design (\$0.2m);
- Commonwealth funded legal assistance services (\$0.3m).

TRIM Ref: JACS2018/1130-009-009

**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety

**ISSUE: Financial Summary – Output 1.5 – Protection of Rights**

**Context:**

Page 350, 2017-2018 Justice and Community Safety Directorate Annual Report provides Total Cost and Controlled Recurrent Payments (CRP) for Output 1.5, Protection of Rights. The major influences leading to variances from the 2017-2018 Original Target to the 2017-2018 Actual are explained in this brief.

**Talking points:**

**Output 1.5: Protection of Rights**

	2017-18 Original Target	2017-18 Actual \$'000	YTD Variance %
<b>Total Cost (\$'000)</b>	8,995	8,286	(8%)
<b>Controlled Recurrent Payment ('000)</b>	8,167	8,220	1%

- *Total Costs:* the favourable variance of \$0.7m is mainly due to:
  - lower long services (LSL) expenses due to the use of a lower rate to estimate the present value of LSL liabilities; and
  - lower superannuation due to staff members retiring from the more expensive superannuation schemes.

Cleared as complete and accurate: 15/10/2018  
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 Dragana Cvetkovski  
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 Lead Directorate: Justice and Community  
 Safety

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TRIM: JACS2018/1130-009-013

**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety**ISSUE:** Rollover from 2017-18 into 2018-19**Talking points:**

- **Appendix A** provides details of rollovers relating to the Minister Justice, Consumer Affairs and Road Safety's portfolio from 2017-18 to 2018-19 through the 2018-19 Budget process. The recurrent program rollovers total \$0.934 million, of which \$0.019 million directly relates to my portfolio; and \$0.915 million relates to my and other Ministers' portfolios.
- **Appendix B** provides details of proposed FMA section 16B rollovers, subject to the Treasurer's approval, from 2017-18 to 2018-19 by capital project and recurrent program relating to the Minister Justice, Consumer Affairs and Road Safety's portfolio. The recurrent program proposed rollovers total \$0.055 million.

**Background Information**

- This brief outlines the rollovers from 2017-18 into 2018-19 through the 2018-19 Budget process and the proposed FMA Section 16B rollovers from 2017-18 to 2018-19.

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**Appendix A - Rollover from 2017-18 to 2018-19 through the 2018-19 Budget process**

Recurrent/ Capital (R/C)	Type	OC	No.	Projects	Reason for rollover	2017-18 \$'000	2018-19 \$'000	2019-20 \$'000	Original Completion Date	Revised Completion Date	Minister
<b>Controlled Recurrent Payment Re-profiling</b>											
R	R	1	1	ATSI Driver License Evaluation	The project is still being finalised, report will not be delivered by later next financial year. Therefore, payment will be made until delivery of the final report.	-6	6		Jun-18	Jun-19	MJCARS
R	R	1	2	Interlock Evaluation	Project is still being finalised whilst awaiting for report from consultant.	-13	13		Jun-18	Jun-19	MJCARS
R	R	1 2 4	3	Strategic Asset Management Plan	To allow for project continuity and completion.	-200	200		Jun-18	Jun-19	All JACS Ministers
R	R	1 2 3 4	4	Learning Management System	To allow for project continuity and completion.	-235	235		Jun-18	Jun-19	All JACS Ministers
R	R	1 2 3 4	5	Implement Strategic Priorities	To allow for project continuity and completion.	-480	480		Jun-18	Jun-19	All JACS Ministers
<b>Total Recurrent Re-profiling</b>						<b>-934</b>	<b>934</b>	<b>0</b>			
<b>BREAKDOWN</b>											
<b>Direct</b>											
<b>Total Re-profiling (Capital)</b>						<b>0</b>	<b>0</b>	<b>0</b>			
<b>Total Reprofiling (Recurrent)</b>						<b>-19</b>	<b>19</b>	<b>0</b>			
<b>Across Ministers</b>											
<b>Total Re-profiling (Capital)</b>						<b>0</b>	<b>0</b>	<b>0</b>			
<b>Total Reprofiling (Recurrent)</b>						<b>-915</b>	<b>915</b>	<b>0</b>			
<b>TOTAL</b>						<b>-934</b>	<b>934</b>	<b>0</b>			

**Appendix B - Proposed s16B Rollover of Undisbursed Appropriation from 2017-18 to 2018-19**

Recurrent /Capital (R/C)	Type	OC	No.	Projects	Reason for rollover from 2017-18 to 2018-19	2018-19 \$'000	Original Completion Date	s16B Revised Completion Date	Minister
				<b>Controlled Recurrent Payment ROLLOVERS</b>					
R	R	1	1	Road Safety Fund	In the 2017-18 financial year, funding was approved by the Minister for Road Safety for projects which met the funding criteria. This is the extra funds to remain in the fund for distribution in the 2018-19 grants round.	55	Jun-18	Jun-19	MJCARS
				<b>Operating Total</b>				<b>55</b>	
				<b>TOTAL DIRECTORATE S16b ROLLOVER REQUESTS (CRP)</b>				<b>55</b>	
				<b>TOTAL DIRECTORATE S16B ROLLOVER REQUESTS (Capital)</b>				<b>0</b>	
				<b>TOTAL DIRECTORATE S16b ROLLOVER REQUESTS (CRP/Capital)</b>				<b>55</b>	

TRIM Ref: JACS2018/1130-010-001

**Portfolio:** Attorney-General

Minister for Justice, Consumer Affairs and Road Safety

**ISSUE: STAFFING PROFILE**

This issue is referenced in Section B.8 Human Resources Management on pages 204-207 of the 2017-18 Annual Report.

**Talking points:**

- As at 27 June 2018 (the last captured pay period in the reporting period), the Justice and Community Safety Directorate (JACS) employed 1,869 people. The full time equivalent (FTE) for the Directorate was 1,781.0 FTE (AR p204 Table 61).
- This was an increase of 51 headcount from June 2017 headcount of 1,818. FTE has increased in the same period by a similar number of 51.5 FTE from 1,729.5 FTE.
- The increase was due to additional staff which were:
  - approved through 2017-2018 Supplementary Appropriation
  - funded through own sourced revenue by the Government Solicitor and Legislation, Policy and Programs
  - for new ACT Ambulance Services and ACT Fire and Rescue recruit colleges
  - associated with project activities
  - to backfill officers who were on paid maternity and extended personal leave.
- At the date of reporting, there were 810.4 FTE female (which represents 45.5 per cent of the JACS workforce) and 970.5 FTE male (which represents 54.5 per cent of the workforce) (AR p 204 Table 62). In June 2017, there were 782.7 FTE (45.3 per cent) female and 946.7 FTE male (54.7 per cent).

Cleared as complete and accurate:	19/10/2018	
Cleared by:	Executive Director	Ext: 55132
Information Officer name:	Virginia Hayward	
Contact Officer name:	Doreen Tan	Ext:70995
Lead Directorate:	Justice and Community Safety	

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## Key Information

- Staff profile by classification group and gender (AR p205 Table 63):

Classification Group	Female	Male	Total
Administrative Officers	345	162	507
Ambulance Officers	78	137	215
Ambulance Support Officers	24	24	48
Correctional Officers	53	164	217
Executive Officers	19	18	37
Fire and Rescue Officers	14	322	336
General Service Officers and Equivalent	0	13	13
Health Professional Officers	13	2	15
Judicial Officers	7	7	14
Legal Officers	100	30	130
Legal Support	15	5	20
Professional Officers	1	1	2
Prosecutors	25	19	44
Senior Officers	163	92	255
Statutory Office Holders	6	6	12
Technical Officers	3	1	4
<b>TOTAL</b>	<b>866</b>	<b>1003</b>	<b>1869</b>

- Staff profile by employment category and gender (AR p205 Table 64):

Employment Category	Female	Male	Total Headcount
Casual	17	21	38
Permanent Full-time	576	860	1436
Permanent Part-time	106	32	138
Temporary Full-time	153	83	236
Temporary Part-time	14	7	21
<b>TOTAL</b>	<b>866</b>	<b>1003</b>	<b>1869</b>

Cleared as complete and accurate: 19/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
 Contact Officer name: Doreen Tan Ext: 70995  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

- JACS had 1,574 permanent employees, 257 temporary employees and 38 casuals (AR p205 Table 64).
- Headcount by division and employment category (AR p204 Table 61 and p205 Table 64)

Division	Permanent	Temporary	Casual	Total
ACT Corrective Services	383	28	8	419
ACT Courts and Tribunal	130	56	10	196
ACT Government Solicitor	83	31	12	126
Corporate	72	17	0	89
Director of Public Prosecutions	63	23	1	87
Emergency Services Agency	664	49	3	716
Human Rights Commission	37	12	2	51
Inspectorate of Custodial Services	0	1	0	1
Legislation, Policy and Programs	65	20	1	86
Office of Director-General	6	3	0	9
Parliamentary Counsel's Office	17	6	0	23
Public Trustee and Guardian	44	11	1	56
Security and Emergency Management Branch	10	0	0	10
<b>TOTAL</b>	<b>1574</b>	<b>257</b>	<b>38</b>	<b>1869</b>

Note: Temporary employees include Contract Executives and Statutory Office Holders.

- ACT Courts and Tribunal's high proportion of temporary staff were mainly judiciary staff. Emergency Services Agency's temporary employees were mainly new recruits with the ACT Ambulance Service.
- JACS had 52 employees who identified themselves as being from Aboriginal and Torres Strait Islander background (AR p206 Table 65). This represented 2.8 per cent of the total JACS workforce. This was an increase from 50 in June 2017.
- Of the 52 Aboriginal and Torres Strait Islander employees, 23 (44.2 per cent) were female and 29 (55.8 per cent) were male.

Cleared as complete and accurate: 19/10/2018  
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 Information Officer name: Virginia Hayward  
 Contact Officer name: Doreen Tan Ext: 70995  
 Lead Directorate: Justice and Community Safety

- Eight employees held senior officer classification level positions and one was a Contract Executive. The classification levels of Aboriginal and Torres Strait Islander employees in JACS are as follows:

Employment Category	Headcount
Administrative Officers	19
ACT Ambulance Service Officers	3
Correctional Officers	13
Executive Officers	1
ACT Fire and Rescue Service Officers	6
Legal and Legal Support Officers	2
Senior Officers	8
Total	52

## Background Information

- The 2017-2018 JACS Annual Report reported the JACS headcount as 1,869. The headcount was an increase of 51 headcount from the previous year.
- As at 27 June 2018, JACS had the following staff on temporary contract:
  - 60 staff on temporary contract of three months or less, which represents 3.2 per cent of the public servants within the Directorate
  - 56 staff on temporary contract of three months to six months in length, which represents 3.0 per cent of the public servants within the Directorate
  - 51 staff on temporary contract of six months to 12 months in length, which represents 2.7 per cent of the public servants within the Directorate.

Cleared as complete and accurate: 19/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
 Contact Officer name: Doreen Tan Ext:70995  
 Lead Directorate: Justice and Community Safety

TRIM Ref: JACS2018/1130-010-011

**Portfolio/s:** Attorney-General

Minister for Justice, Consumer Affairs and Road Safety

**ISSUE: JACS STAFF SURVEY**

The Canberra Times published a news article “Justice Directorate staff are concerned about bullying and harassment” on Monday 9 April 2018 at 2:57 pm.

**Talking points:**

- The information collected in the 2017 Justice and Community Safety (JACS) Staff Survey provides valuable information on staff perception at that point in time on what works well in JACS and identifies opportunities for improvement.
- The survey is one tool that assists the Directorate in understanding the broad culture of the organisation and makes an assessment of the level of staff engagement.
- It is important to note that while there is room for improvement, Directorate’s results reflect that JACS is average when compared to other large public sector organisations.
- The results are also reflective of the diverse nature of the functions and services it delivers. For example the functions undertaken by Corrections and Emergency Services by their very nature are high risk and staff operate in high pressure environments, which can have an impact on organisational culture.
- JACS is committed to improving its workplace culture and has a Workforce Strategy 2017-2019 to help achieve this. The survey results are used by the Directorate and Business Heads to inform other work that is being delivered across the Directorate as part of its Workforce Strategy.
- It should be noted that responses related to favouritism, harassment and bullying have statistically improved over time, with nearly 10 per cent more employees reporting that they felt free from bullying and harassment in the last survey, compared with the 2015 data.

Cleared as complete and accurate: 19/10/2018  
Cleared by: Executive Director Ext: 55132  
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Lead Directorate: Justice and Community Safety

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## Background Information

- The JACS Staff Survey was conducted during April and May 2017. The next survey will be conducted in 2020.
- JACS is committed to continuing the process of undertaking staff surveys, to understand what is happening and work on how to respond and improve the organisation as a whole. This is part of the whole of JACS workforce strategy.
- In support of this, business units are working with staff on the results of the survey.
- JACS will continue to progress actions to facilitate a more engaged, enabled and empowered workforce.
- Detailed results from the JACS staff surveys, including those of the ESA, are not made public for a number of reasons:
  - the assurances made to staff about the confidentiality of their responses and the risk of undermining staff confidence and participation in future surveys (which is voluntary);
  - the commercial value and intellectual property of Best Practice Australia as the survey provider would be compromised; and
  - the nature of the reports, which are designed as working documents by executives and managers within the organisation.
- The following information relates to the 2015 and 2017 Staff Survey responses on bullying and harassment questions. To achieve the almost 10% improvement involved combining these 2 questions and averaging across 2 survey year population sizes.

Staff Survey	Response to "A workplace that is free from harassment"	Response to "A workplace that is free from Bullying"
2015	57% (731)	52% (729)
2017	66% (861)	59% (865)

Cleared as complete and accurate: 19/10/2018  
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 Lead Directorate: Justice and Community Safety

**ISSUE: Bullying and Harassment****Talking points:**

- In 2017-18, the Justice and Community Safety Directorate (JACS) undertook a total of seven preliminary assessments relating to allegations of bullying and harassment and sexual harassment. All processes were conducted in accordance with Section H of the relevant ACT Public Service (ACTPS) Enterprise Agreement.
- All of the preliminary assessments undertaken were from ACT Corrective Services (ACTCS). Five related to allegations of bullying and harassment and two related to allegations of sexual harassment.
- No bullying and harassment or sexual harassment complaints were received from the ACT Emergency Services Agency (ESA) in the 2017-18 financial year.
- However, since the commencement of the 2018-19 financial year three female staff members from the ACT Ambulance Service (ACTAS) have raised workplace behaviour concerns by some male staff.
- A preliminary assessment was undertaken into these matters, with systemic issues identified. An action plan, including support mechanisms to be provided to the individual staff members, is currently being developed.

**Bullying and Harassment**

- Of the five preliminary assessments related to allegations of bullying and harassment:
  - one progressed to a formal misconduct investigation which was subsequently ceased prior to the finalisation of the investigation. This was due to a lack of evidence in support of the claims and both parties agreeing to participate in other remedial action;
  - three were found to have insufficient evidence to support the allegation/s at the preliminary assessment stage; and

Cleared as complete and accurate: 26/10/2018  
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Contact Officer name: Justine Lowder Ext: 53307  
Lead Directorate: Justice and Community Safety

- one was managed by other remedial action without the need for a formal misconduct investigation.

## Sexual Harassment

- Of the two preliminary assessments relating to allegations of sexual harassment:
  - one was found to have insufficient evidence to support the allegation following the preliminary assessment; and
  - one progressed to a formal misconduct investigation which was found to be substantiated. The individual resigned prior to a final sanction being given.
- Since 2015, the directorate has captured more detailed data including information relating to complainants. This data shows that during the 2017-18 financial year, the majority of allegations made were against staff in the senior officers classification or equivalent.

## Compensation

- In 2017-2018, the directorate had a total of 10 compensation claims lodged where the claimant indicated bullying and harassment was involved. Liability was accepted for five of these.

	JACS Other	ACTCS	ESA
Compensation Claims	0	3	7
Liability Accepted	0	2	3

- The number of preliminary assessments undertaken and compensation claims received do not match for a number of reasons including:
  - data is from a different source; not all preliminary assessments have a corresponding compensation claim, or the process may have different timing. For example, the preliminary assessment may be undertaken prior to any claim, and timing could be several months apart.
  - claims are coded by Comcare and reflect what is entered by the claimant on their initial claim, and may reflect a one-off incident rather than bullying and harassment.

Cleared as complete and accurate: 26/10/2018  
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 Lead Directorate: Justice and Community Safety

## Staff Training

- Respect, Equity and Diversity (RED) training, which includes bullying prevention and management, has been mandatory for all staff since the launch of the ACTPS RED Framework in December 2010. In addition, the directorate Inclusion Statement 2016-2019 (launched in 2015-2016) continues to set the foundation to build inclusiveness within the workplace.
- Since the launch of the ACTPS RED Framework in 2010, there has been 1,672 staff have attended RED training across the directorate (inclusive of separated staff).
- During 2017-2018, a total of 142 JACS staff participated in RED training.

	JACS Other	ACTCS	ESA
RED Training	37	54	51

- At the end of 2017-2018, the directorate had a total of 35 RED contact officers (including one from Public Trustee and Guardian).

	JACS Other	ACTCS	ESA
RED Contact Officers	9	8	18

- JACS provide ongoing promotion and implementation of the *ACTPS Resolving Workplace Bullying, Harassment and Discrimination Guidelines* which included RED in the induction program for all new employees.
- A total of 157 JACS staff attended induction in 2017-2018, at which the RED Framework and Social Inclusion were discussed.

	JACS Other	ACTCS	ESA
Induction training	40	52	65

## Key Information

- All reports of bullying and harassment and sexual harassment were from ACTCS.

Cleared as complete and accurate: 26/10/2018  
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# ANNUAL REPORT HEARING BRIEF

- A total of 10 compensation claims were lodged where the claimant indicated bullying and harassment, with liability being accepted for five claims. Three claims were from ACTCS and seven claims were from ESA.
- During the reporting year, 142 JACS staff attended RED training. 54 were from ACTCS, 51 were from ESA and 37 were from the Attorney-General's portfolio.
- At the end of 2017-2018, the directorate had a total of 35 RED contact officers. Eight were from ACTCS, 18 were from ESA and nine were from the Attorney-General's portfolio.

## Background Information

- Information regarding investigation into alleged breaches of Section 9 of the *Public Sector Management Act 1994*, which includes bullying and harassment, are reported on an annual basis in the ACT Government State of Service Report 2016-2017 and are not disaggregated to Directorate level.
- Misconduct information for JACS was also recently provided in response to a Question on Notice (QON) reference document MIN: 2018/003809.

Cleared as complete and accurate: 26/10/2018  
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Lead Directorate: Justice and Community  
Safety

**ISSUE: Attraction and Retention Incentives – Whole of Directorate**

**Talking points:**

- Attraction and Retention Incentives (ARIns) may be offered:
  - where a position is deemed critical to the operation of the Directorate
  - if employees with specialist qualifications or specialist or high level skills are required
  - the skills required by the employee who occupies the position are in high demand in the marketplace
  - the position would incur significant costs to replace
- An ARIn may contain enhanced pay rates, provision for privately plated vehicles or other terms and conditions of employment where the Director-General and Head of Service considers there is a clear, unambiguous and exceptional need.
- As at 30 June 2018 the Justice and Community Safety (JACS) Directorate had eight Attraction and Retention Incentives (ARIns) in place.
- This includes two group ARIns. One group ARIn for the ACT Ambulance Service (ACTAS) and one group ARIn for ACT Fire and Rescue (ACTF&R).
- Seven ARIns were terminated during the 2017-18 financial year.
- Due to the small number of ARIns within the Directorate, for privacy purposes, it is not possible to provide further information.
- ARIns must be reviewed at least annually, with a comprehensive review to be undertaken every three years.

Cleared as complete and accurate: 26/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Donna Burns Ext:53831  
Lead Directorate: Justice and Community Safety

## Key Information

- Information pertaining to ARIns for JACS is contained on page 203 of the Annual Report.
- ARIns within the Directorate:

Description	Number of Individual ARIns
Number of ARIns at 30 June 2018	8
Number of new ARIns commenced during the reporting period	1
Number of ARIns for employees who have transferred from Special Employment Arrangements (SEAs) during the period	0
Number of ARIns terminated during the period	7
Number of ARIns providing for privately plated vehicles as at 30 June 2018	0

- Table - Individual ARIns

Classification Range	Remuneration as at 30 June 2018
SOGA and Equivalent	\$146,138 to \$167,363
Fire Brigade (FB) 8	\$140,614

## Background Information

- The use of ARIns is made available through relevant Enterprise Agreements.
- ARIns are used in limited circumstances and only where it is necessary to attract and/or retain employees with specialist skills.

Cleared as complete and accurate: 26/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
 Contact Officer name: Donna Burns Ext:53831  
 Lead Directorate: Justice and Community Safety

**ISSUE: Voluntary Redundancies (whole of Directorate)**

**Talking points:**

- In the 2017-2018 financial year, two employees accepted an offer of voluntary redundancy (VR).
- Of the two:
  - one related to the change of arrangements for the Managed Accommodation Program (MAP) for Corrections; and
  - one related to restructuring in the ACT Courts and Tribunal.
- Due to the small numbers no more information can be provided regarding the specifics of each voluntary redundancy as it may identify the individuals concerned.
- The delegation for voluntary redundancies is held by all executives, and usually exercised by business units heads only.
- Any restructure that may result in excess staff is referred to the JACS People and Workplace Strategy Unit to ensure that the provisions of the relevant enterprise agreement are followed, including consultation with affected staff and/or their representative.

**Key Information**

- In the 2017-2018 financial year, there were two voluntary redundancies in JACS. This is a reduction of four from the previous financial year.
- None were related to requirements to make efficiency savings.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext: 53307  
Lead Directorate: Justice and Community Safety



**Background Information**

- Where an employee becomes excess to requirements, the Directorate endeavours to identify a suitable position for them to transfer to. Where there are limited opportunities to redeploy excess staff within the ACT Public Service, an offer of voluntary redundancy can be made to the employee. A proportion of excess staff accept an offer of voluntary redundancy. The process for redeployment and redundancy are provided in the relevant enterprise agreement.
- The length of time between the changes to the MAP and the offer of VR was due to the individual finding temporary/project roles only in the interim and was unable to be permanently redeployed.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext: 53307  
Lead Directorate: Justice and Community  
Safety

TRIM Reference: JACS2018/1130-012-005

**Portfolio/s:** JACS Ministers**ISSUE:       PROCUREMENT****Talking points:**

- The Justice and Community Safety Directorate (JACS) has scheduled Procurement Fraud Risk Assessments to be completed each financial year as part of the JACS Strategic Internal Audit Program 2018-21.
- In March 2018, JACS engaged an external provider to conduct an audit of the procurement processes undertaken for the 12 Moore Street Accommodation project. The audit assessed the extent to which the procurement was undertaken in accordance with relevant legislation, government policies and guidelines.
- A number of areas of good practice were highlighted in this audit including a gap analysis of the JACS Procurement Framework and other guidelines noting that all key requirements had been covered; review of detailed budget and expenditure relating to the procurement; and that approvals from the Director-General / Executive were adequately documented and in place prior to committing funds for the procurement.
- The key observations made in the final report focused on formalising the Procurement, Contract Management and Assurance Framework (the Framework), documenting key aspects of procurement, providing training to staff who undertake procurement and ensuring records are maintained.
- In 2018-19 JACS will engage external service providers to undertake audits of procurement, project management and invoice payments to identify fraud risk and improve processes.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Director Ext: 6207 5066  
Information Officer name: Kaye Yen  
Contact Officer name: Kirilee Crump Ext: 6207 9033  
Lead Directorate: Justice and Community Safety

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**Key Information**

- Prior to the review's completion JACS published a new Procurement, Contract Management and Assurance Framework in December 2017. This Framework includes procurement tools and templates.
- The ACT Government Goods and Services Procurement division delivered training sessions to JACS staff in September 2017, and in February and March 2018. Ongoing training is now provided to capture new staff.

**Background Information**

- On 4 October 2018 the Canberra Times published an article stating that ACT Government staff approved up to \$1.4 million worth of work in relation to the 2017 Floriade festival without adequately following procurement processes.
- To inform this article, CMTEDD was asked to provide further information on procurement reviews and subsequent findings in other ACT Government directorates.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Director Ext: 6207 5066  
Information Officer name: Kaye Yen  
Contact Officer name: Kirilee Crump Ext: 6207 9033  
Lead Directorate: Justice and Community  
Safety



**Background Information**

- Two incidents of alleged fraud were reported to the SERBIR in 2017-2018.
- In the first incident, a ACT Courts and Tribunal staff member falsely claimed reimbursement for the use of a private motor vehicle while undertaking travel for work. After consideration internally, the directorate has referred the incident to the Professional Standards Unit to conduct a misconduct investigation. In addition, in May 2018 the directorate engaged an external service provider to undertake an internal audit of the directorate's travel policy and forms.
- In the second incident, \$140 was found to be missing from a cash tin in the ACT Courts and Tribunal. An internal review did not identify any misconduct, however strengthened cash management and handling processes were implemented.

Cleared as complete and accurate: 24/10/2018  
Cleared by: Executive Director Ext: 74813  
Information Officer name: Liz Beattie  
Contact Officer name: Kirilee Crump Ext: 79033  
Lead Directorate: Justice and Community  
Safety

**ISSUE: Public Interest Disclosures**

**Talking points:**

- The Justice and Community Safety Directorate (JACS) received no (0) Public Interest Disclosures (PID) in the 2017/18 year.
- JACS relies on the Public Interest Guidelines 2017 as notified by the then Public Sector Standards Commissioner in June 2017 as its guidelines.
- Matters under the *Public Interest Disclosure Act 2012* (PID Act) are reviewed to determine if they fit the criteria of what constitutes a disclosable conduct, which includes any of the following:
  - (a) conduct of a person that could, if proved—
    - (i) be a criminal offence against a law in force in the ACT; or
    - (ii) give reasonable grounds for disciplinary action against the person;
  - (b) action of a public sector entity or public official for a public sector entity that is any of the following:
    - (i) maladministration that adversely affects a person’s interests in a substantial and specific way;
    - (ii) a substantial misuse of public funds;
    - (iii) a substantial and specific danger to public health or safety;
    - (iv) a substantial and specific danger to the environment.
- If a matter can be appropriately managed by another mechanism a decision maker may choose not to investigate the matter under the PID Act.

**Key Information**

That there were no PIDs received by the Directorate in 2017/18.

**Background**

In 2016/17 there were 6 matters received by the Directorate for consideration under the PID Act and 2 in 2015/16.

Cleared as complete and accurate: 06/11/2018  
Cleared by: Deputy Director-General Ext: 53995  
Information Officer name: Richard Glenn  
Contact Officer name: Liz Beattie Ext:  
Lead Directorate: Justice and Community Safety

**ISSUE: Freedom of Information Statistics (Directorate)**

The Freedom of Information Act 1989 and the Freedom of Information Act 2016 require all ACT Government Agencies to publish details of the number of Freedom of Information (FOI) applications received during the financial year, processing and decision timeframes through annual reporting.

**Talking points:**

- *The Freedom of Information Act 2016* commenced on 1 January 2018, which means the annual report 2017-2018 will contain information about access applications made under both FOI Act 2016 and FOI Act 1989.
- In 2017-2018, the Justice and Community Safety Directorate received 70 FOI access request in total, including 38 requests under the FOI Act 1989 and 32 requests under the FOI Act 2016\*.

	Initial requests to access documents	Full access	Partial access	Refused access	Decision pending
July – December 2017, under <i>Freedom of Information Act 1989</i>	38	4	21	16	0
January – June 2018, under <i>Freedom of Information Act 2016</i>	32	5	17	7	N/A**

\*Not all requests received in 2017-2018 financial year were processed by the Directorate in that financial year.

\*\* Number of decisions pending is not a reporting requirement under the *Freedom of Information Act 2016*.

- The majority of FOI requests resulted in full or partial release of documents requested.
- Access to documents was withheld most commonly where the documents was already publicly available.
- The annual report captures the FOI processing time reporting requirements under both FOI Acts.

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Executive Director Ext: 76244  
 Information Officer name: Kaye Yen  
 Contact Officer name: Julia Bowden Ext: 74558  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

July – December 2017, under <i>Freedom of Information Act 1989</i>	31 days or less	31-45 days	46-60 days	61-90 days	91 days or more	Decision pending	Withdrawn
	25	2	6	3	0	0	0
January – June 2018, under <i>Freedom of Information Act 2016</i>	Access Application decided within time to decide		Access Application not decided within time to decide		Additional number of days taken to decide over the time to decide		
	24		3		1, 6, 1		

- Of the 70 application processed in 2017-2018, 49 were completed within the statutory time to decide for FOI access requests. Applicants agreed to extensions to all the FOI requests that were not processed within the statutory timeframe.
- The *Freedom of Information Act 2016* also requires ACT Government Directorates to report on the publishing of Open Access Information. Between January and June 2018, Justice and Community Safety Directorate has published 123 Open Access documents. JACS is committed to continue the frequent publishing of Open Access information.

## Key Information

- The 70 FOI requests received by the Directorate during 2017-2018 related to the following business units:

Business unit	Number of requests Jul-Dec 2017	Number of requests Jan-Jun 2018
ACT Corrective Services	17	11
JACS Corporate	5	10
Emergency Services Agency	4	6
ACT Law Courts and Tribunal	2	1
Public Trustee	1	1
Human Rights Commission	4	0
Transferred to other agencies	5	3
<b>Total</b>	<b>38</b>	<b>32</b>

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Executive Director Ext: 76244  
 Information Officer name: Kaye Yen  
 Contact Officer name: Julia Bowden Ext: 74558  
 Lead Directorate: Justice and Community Safety



**Background Information**

- The ACT Legislative Assembly passed the *Freedom of Information Act 2016* on 11 August 2016.
- The new FOI Act commenced on 1 January 2018 and is weighted towards pro-disclosure. The new regime will also include an obligation to proactively release information as part of the Open Access scheme.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Executive Director Ext: 76244  
Information Officer name: Kaye Yen  
Contact Officer name: Julia Bowden Ext: 74558  
Lead Directorate: Justice and Community  
Safety

JACS2018/1130-012-006

**Portfolio/s:** JACS Ministers

**ISSUE: Freedom of Information Statistics (Whole of Government)**

The Freedom of Information Act 1989 and the Freedom of Information Act 2016 require all ACT Government Agencies to publish details of the number of Freedom of Information (FOI) applications received during the financial year, processing and decision timeframes through annual reporting.

**Talking points:**

- *The Freedom of Information Act 2016* commenced on 1 January 2018, which means the annual report 2017-2018 will contain information about access applications made under both FOI Act 2016 and FOI Act 1989.
- The new FOI Act commenced on 1 January 2018 and is weighted towards pro-disclosure. The new regime also includes an obligation to proactively release information as part of the Open Access scheme.
- In 2017-2018, the ACT Government received 867 FOI access request in total, including 394 requests under the *FOI Act 1989* and 473 request under the *FOI Act 2016*\*.

	Initial requests to access documents	Full access	Partial access	Refused access	Decision pending
July – December 2017, under <i>Freedom of Information Act 1989</i>	394	70	184	97	15
January - June 2018, under <i>Freedom of Information Act 2016</i>	473	48	165	62	N/A**

\* Not all requests received in 2017-2018 financial year were processed by the ACT Government in that financial year. Not all requests proceed to a formal decision on access, as in some cases documents can be released informally or a request may be withdrawn.

\*\* Number of decisions pending is not a reporting requirement under the *Freedom of Information Act 2016*.

- The majority of FOI requests resulted in full or partial release of documents requested.

Cleared as complete and accurate: 15/10/2018  
 Cleared by: Deputy Director-General Ext: 53504  
 Information Officer name: Richard Glenn  
 Contact Officer name: Kaye Yen Ext:75066  
 Lead Directorate: Justice and Community Safety

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# ANNUAL REPORT HEARING BRIEF

- Access to documents was withheld most commonly where the documents were already publicly available or were not in the public interest to be disclosed.
- The annual report captures the FOI processing time reporting requirements under both FOI Acts.

July – December 2017, under <i>Freedom of Information Act 1989</i>	31 days or less	31-45 days	46-60 days	61-90 days	91 days or more	Decision pending	Withdrawn
	199	68	40	22	31	15	48
January – June 2018, under <i>Freedom of Information Act 2016</i>	<b>Access Application decided within time to decide</b>				<b>Access Application not decided within time to decide</b>		
	247				84		

- The majority of the applications processed in July – December 2017 were completed within the statutory time to decide for FOI access requests. Applicants agreed to extensions to all the FOI requests that were not processed within the statutory timeframes.
- The new FOI Act has changed the FOI decision time reporting requirements to improve transparency. Between January – June 2018, 247 FOI requests were decided within the time to decide under Section 40 of the new Act. Extensions were granted by the applicants or the Ombudsman for the 84 applications that were not decided within the time to decision. Additional processing days for ACT Government Directorates and agencies are recorded in Table 3.1.3 in Section O.2 of the Justice and Community Safety Annual report.
- The new FOI Act also requires ACT Government Directorates to report on the publishing of Open Access Information for greater accountability and transparency. Between January to June 2018, the ACT Government has published 2774 Open Access documents. To date, the ACT Government has published over 3693 Open Access documents and is committed to continue the frequent publishing of Open Access information.
- The new Act (Section 96) requires each Minister, for each financial year, to prepare a report on the operation of this Act in relation to the Minister during the year (the Minister’s Annual Report).

Cleared as complete and accurate: 15/10/2018  
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 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

- All required information in regards to the Minister's Annual Report has been included in the Justice and Community Safety Directorate Annual Report.

## Key Information

- The 867 FOI requests received by the ACT Government during 2017-2018 related to the following Directorates:

Directorates and the relevant portfolio bodies	Number of requests Jul-Dec 2017	Number of requests Jan-Jun 2018
ACT Ministers	1	1
Officer of the Legislative Assembly	0	0
Chief Minister, Treasury and Economic Development Directorate	137	163
Community Services Directorate	70	82
Environment, Planning and Sustainable Development Directorate	57	87
ACT Health Directorate	19	43
Education Directorate	26	13
Transport Canberra and City Services Directorate	46	52
Justice and Community Safety Directorate	38	32
<b>Total</b>	<b>394</b>	<b>473</b>

## Background Information

- The ACT Legislative Assembly passed the *Freedom of Information Act 2016* on 11 August 2016.

Cleared as complete and accurate: 15/10/2018  
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# ANNUAL REPORT HEARING BRIEF

TRIM Ref: JACS2018/1130-013-001

**Portfolio/s:** JACS Ministers

## ISSUE: International travel undertaken by the Justice and Community Safety for 2017-2018

### Talking points:

- The Justice and Community Safety Directorate (JACS) purchased 22 international airfares in the 2017-2018 financial year at a cost of \$57,089.46. (Note this cost is for airfares only and does not include accommodation.)
- The majority of international travel for 2017-2018 financial year was to New Zealand.
- All international travel requires Ministerial approval

### Key Information

#### 2017-2018 International Travel

Division	Airfares	Cost	Reason for travel	Destination
ACT Corrective Services	1	\$1,426.42	Conference (1)	(1) New Zealand
ACT Courts & Tribunal	3	\$6,893.76	Conference (3)	(2) New Zealand (1) Phillippines
Emergency Services Agency	9	\$19,209.09	Training (3) Workshop (2) Site Visits (2) Meeting (1) Working Group (1)	(6) New Zealand (3) USA
ACT Government Solicitors	8	\$26,397.13	Expert Witness Conference (4) Medico-legal appointments (4)	(6) New Zealand (2) United Kingdom
JACS Director General	1	\$3,163.06	Overseas meeting with ACT Head of Service and Director-General delegation	(1) Singapore
<b>Total</b>	<b>22</b>	<b>\$57,089.46</b>		

Cleared as complete and accurate: 16/10/2018  
 Cleared by: Executive Director Ext: 78420  
 Information Officer name: Moira Crowhurst  
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 Lead Directorate: Justice and Community Safety

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**ISSUE:** Work health and safety performance (Whole of Directorate)

Page 194-195

**Talking points:**

- The national work health and safety targets are:
  1. Reduce the incidence rate of claims resulting in one or more weeks off work by at least 30%.
  2. Reduce the incidence rate of claims for musculoskeletal disorders (MSD) resulting in one or more weeks off work by at least 30%.
- **Target 1** - There was a 4.5% increase in the rate of claims resulting in one or more weeks off work during the reporting period.
  - All of these claims were in the operational workforces of ACT Emergency Services Agency and ACT Corrective Services with the majority (33 of 44) related to physical injuries.
  - The JACS Workplace Health and Safety (WHS) team continues to work with business units to implement prevention strategies and to carry out root cause analysis of incidents resulting in claims within this category.
- **Target 2** - The number of musculoskeletal disorders (MSD) injuries have increased for the second consecutive year with an increase of nine to 33. In the 2018/19 financial year the Directorate will be implementing a strategy of conducting root cause analysis of all incidents that result in one or more days off work to identify further improvement opportunities to reduce these types of injuries.
- While there are unique injury prevention strategies in place, this figure highlights the unique risk profile of the directorate's business units compared to the broader ACTPS.
- The majority of injuries of these kind occur in the Emergency Services and Correctional settings.

Cleared as complete and accurate:	02/11/2018	
Cleared by:	Executive Director	Ext: 55132
Information Officer name:	Virginia Hayward	
Contact Officer name:	Tim Geoghegan	Ext:73985
Lead Directorate:	Justice and Community Safety	

- The JACS WHS team continues to work with business units to promote employee access to the ACT Government physiotherapy early intervention program.

#### **Powered stretchers**

- The ACT Ambulance Service staff suffer musculoskeletal injuries as they perform heavy physical work in uncontrolled environments. The Government has funded \$423,000 in the 2018/19 financial year for the purchase of electric stretchers to reduce the injuries related to the movement of patients.
- ACT Ambulance Service in the 2017/18 financial year installed 5 powered stretchers to both emergency and non-emergency vehicles. In the 2018/19 financial year ACT Ambulance Service has scheduled an additional twelve powered stretchers to be retrofitted to emergency and non-emergency vehicles.
- A further six vehicles are scheduled to have powered stretchers installed in the 2019/20 financial year.
- The installation of powered stretchers to the ACT Ambulance fleet allows paramedics and patient transport staff to raise, lower and unload patients using a touch finger control rather than a manual lift. This change in work practises will assist to minimise manual handling injuries of workers when loading and unloading patients.

Cleared as complete and accurate: 02/11/2018  
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Lead Directorate: Justice and Community Safety

TRIM Ref: JACS2018/1130-011-001

**Portfolio/s:** JACS Ministers**ISSUE: SUSTAINABILITY (B.9 Ecologically Sustainable Development)****Talking points:**

- The JACS Sustainability Management Plan 2018-20 was developed to align with the ACT Carbon Neutral Government Framework and provide a roadmap for JACS to transition to zero greenhouse emissions by 2020.
- It outlines a shift in strategy to drive value for money energy efficiency infrastructure upgrades with a return on investment at high usage and greenhouse emitting sites. These include the Alexander Maconochie Centre (AMC) and some ACT Policing sites.
- JACS dedicates funding for energy efficiency works through the Better Infrastructure Fund (BIF). This is used across selected sites within the JACS property portfolio.
- In 2017-18, energy efficiency BIF works were completed at ESA sites, including the Joint Emergency Services Centre at Gungahlin, the ESA Training Centre at Hume and the ACT Rural Fire Service (ACTRFS) at Jerrabomberra.
- Baseline energy audits for the AMC and priority ACTP sites commenced in 2017-18 have been completed. These energy audits have identified an energy efficiency program of works to reduce greenhouse emissions.
- Planning for energy efficiency works at the AMC is now underway. Energy efficiency solutions are also planned to be incorporated in the Upgrading ACT Policing Facilities project which commenced in 2018-19 at the Winchester Police Centre (WPC) and Tuggeranong Police Station (TPS).

**If asked about Carbon Budget and Targets:**

- The JACS 2018-19 Carbon Budget aims to cap greenhouse emissions at 2017 levels. The 2018-19 target focuses on greenhouse emissions from gas. It is intentionally ambitious given the lead times to deliver gas consumption reductions.
- The JACS 2017-18 Carbon Budget target was a 1.5 per cent reduction in stationary energy (electricity and gas) consumption compared to the 2016 calendar year baseline. The directorate did not achieve this target

Cleared as complete and accurate: 01/11/2018  
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Safety

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and realised an increase of 4.9 per cent in stationary energy consumption.

- Gas consumption increases were primarily attributed to weather variation and operational growth, in particular, construction at the ACT Courts precinct, the addition of the Aranda Ambulance and Fire and Rescue Station, and expansion at the AMC.

## **Key Information**

### Governance

- Senior JACS executives are driving sustainability action across the directorate as part of their performance and development plans.
- JACS recruited a dedicated Sustainability Manager in 2017-18 to provide guidance to the directorate in the development and implementation of a sustainability plan.

### 2017-18 JACS Carbon Budget results

- Increases in gas consumption between 2017-18 and 2016 were primarily attributed to the ACT Courts precinct (increase of 39 per cent), the Aranda Ambulance and Fire and Rescue Station (increase of 249 per cent) and the Alexander Maconochie Centre (AMC) (increase of 4 per cent).
- These results are consistent with infrastructure development at each site:
  - a. construction at the ACT Courts began in April 2016 and ramped up in the intervening period
  - b. the Aranda Ambulance and Fire and Rescue Station came online in August 2017
  - c. the AMC increased detainee numbers, expanded the facility's laundry and added a bakery in late 2016-17.

### Energy efficiency BIF works

- In 2017-18, JACS expended \$262k on energy efficiency works:
  - a. Gungahlin, Joint Emergency Services Centre (JESC) upgrade of the building management system and lighting.
  - b. ACT ESA Training Centre heating and ventilation improvements and building management system upgrade.
  - c. ACT RFS Jerrabomberra external lighting upgrade.
  - d. The 2017-18 appropriation energy efficiency BIF of \$290k.

Cleared as complete and accurate: 01/11/2018  
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- e. \$251k of the expenditure was from the Better Infrastructure Fund. \$11k was cash managed internally.
- In 2018-19, \$290k is allocated energy efficiency works from the BIF.

## Water

- The SMP commits to development of a water management plan. The AMC is the primary user of water across the JACS portfolio. The water plan will build on water sensitive infrastructure at the AMC including water collection tanks and grey water recycling.
- In 2017-18, JACS water use increased by 37.5 per cent. This was predominantly due to infrastructure and detainee growth at the AMC (including added multipurpose centre, laundry, bakery and sporting field).

## Waste

- In 2017-18, JACS achieved a significant decrease in waste to land fill, paper and cardboard through rationalisation of the existing waste arrangements in the previous year.

## Transport

- The directorate has adopted the ACT transition to zero emissions vehicles action plan 2018-21. In 2017-18, the directorate commenced liaison with EPSDD and CMTEDD in relation to the ACT transition to zero emissions vehicles action plan 2018-21, specifically in relation to the transition of light passenger vehicles to electric vehicles.

## **Background Information**

- In accordance with the CNG Framework, all agencies are required to develop a SMP to set sustainability objectives and progress towards the ACT Government achieving carbon neutrality across its operations by 2020.
- In 2015-16, the CNG Framework established annual Carbon Budgets. The purpose of the Carbon Budget is to set an annual target to work towards zero greenhouse emissions by 2020.
- The CNG Framework provides funding for energy efficiency projects with a payback of 10 years or less.
- A review of the Sustainability Committee purpose, operation and terms of reference is currently being reviewed to align with the shift in the sustainability strategy and implementation of the new SMP.

Cleared as complete and accurate: 01/11/2018  
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TRIM Ref: JACS2018/1130-011-002

**Portfolio/s:** JACS Ministers

**ISSUE: JACS 2017-18 BETTER INFRASTRUCTURE FUND**

**Talking points:**

- The JACS Better Infrastructure Fund (BIF) in 2017-18 was \$1.769m including \$0.268m for Territorial assets and \$1.501m for Directorate assets.
- The program of works were physically and financially completed by 30 September 2018.
- The JACS 2017-18 BIF was allocated between various business units and agencies to upgrade various facilities across the Justice and Community Safety portfolio, with particular emphasis on work health and safety, and security.

*If asked how much was spent on various business units.*

Total expenditure was:

- Emergency Services Agency - \$0.456 million
- ACT Policing – Territorial assets - \$0.265 million
- Corrective Services - \$0.641 million
- Other JACS business units including JACS Energy Efficiency work program across JACS - \$0.475 million

Cleared as complete and accurate: 30/10/2018  
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**Background Information**

- The JACS 2017-18 BIF program of works comprised the following:

<b>Projects</b>	<b>Actual Cost \$'000</b>
ACT Ambulance Service Fyshwick privacy and dignity upgrade	81
ACT Fire and Rescue Technical Operation Support Service ablutions upgrade	250
ESA Hume Training Centre retention pond works	99
JACS ESA Back up Communication Centre deck replacement	17
JACS ESA State Emergency Service Belconnen roof safety sytem upgrade	9
<b>ESA TOTAL</b>	<b>456</b>
Winchester Police Centre upgrades	265
<b>ACT Policing - Territorial total</b>	<b>265</b>
AMC audio visual capability upgrade	46
AMC cottage windows upgrade	236
AMC detainee admissions area upgrade	23
AMC emergency and exit lighting upgrade	81
AMC fall protection rails installation	209
AMC internal service roads upgrade	46
<b>Corrections TOTAL</b>	<b>641</b>
ACT Government Solicitor facility improvement	72
Director of Pulic Prosecutions Criminal Law Resource Centre physical re-fit	29
Forensic Medical Centre resurfacing of autopsy benches	77
JACS Energy Efficiency works program	265
Magistrates Court lock replacement program	10
SEMB ASNET Access Security Controls	22
<b>Other JACS TOTAL</b>	<b>475</b>
<b>Total Expenditure</b>	<b>1,837</b>
<b>Total overspend</b>	<b>68</b>

Cleared as complete and accurate: 30/10/2018  
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# ANNUAL REPORT HEARING BRIEF

- The majority overspends are listed as below (slightly offset by some underspend in other projects):

Projects	Overspend \$'000	Reasons
ACT Fire and Rescue Technical Operation Support Service ablutions upgrade	33	Underground services not identified on "Dial before you dig"
AMC Cottage Windows Upgrade	23	Due to installation complexity
JACS Energy Efficiency Program	14	Additional lighting at the ESA Technical Operations Support Service
<b>Total overspend</b>	<b>70</b>	

The overspend was managed internally by the Directorate.

Future JACS BIF planning will be informed by updated Strategic Asset Management Plans, building condition assessments and energy efficiency audits.

Cleared as complete and accurate: 30/10/2018  
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TRIM Ref: JACS2018/1130-012-004

**Portfolio/s:** JACS Ministers**ISSUE: INTERNAL AUDIT****Talking points:**

- The JACS internal audit function is an independent, objective assurance and consulting activity designed to add value, and improve the directorate's operations.
- The JACS Strategic Internal Audit Program is developed annually using a risk-based methodology to identify areas of strategic and operational risk with those having a high or above risk rating given a greater priority for inclusion in the audit program.
- All actions taken by business units to address recommendations identified in each external and internal audit are monitored and reported to the Audit and Performance Improvement Committee (APIC) on a quarterly basis.

**Key Information**

- As part of the annual audit program, ten audits and reviews were presented to the APIC for consideration in 2017-18:
  - JACS Assurance Map
  - A Procurement Audit
  - AMC Detainee Trust Account Fraud Risk Assessment
  - Review of Security of Ambulance Medication Kits
  - HP Records Manager 8 Access Controls Review
  - Warrant Procedural Review
  - Accountability Indicators Review
  - Statement of Performance Recommendations Review
  - Human Rights Commission, Public Trustee and Guardian, and 12 Moore Street Business Continuity Tests
  - Bushfire Preparedness Risk Assessment.

Cleared as complete and accurate: 01/11/2018  
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Contact Officer name: Kirilee Crump Ext: 79033  
Lead Directorate: Justice and Community Safety

- Field work was in progress for a further two audits at the end of the financial year. These audits are:
  - ACT Courts Travel Entitlements
  - Security and Emergency Management Branch Grant Management

The ACT Courts travel audit was completed and presented to APIC in September 2018.

### **Background Information**

- The approach to developing the 2017-18 Strategic Internal Audit Program included:
  - undertaking a selection of information gathering interviews across the directorate
  - reviewing relevant parts of the directorate's strategic risk profile to identify areas of importance and risk to the directorate, or where the potential for loss or failure is greatest
  - considering emerging internal audit topics as identified by APIC
  - understanding the need for compliance reviews in selected areas
  - reviewing past internal and external audit activities/findings
- In 2017-18, \$105,187 was spent by Governance to conduct internal audits and engage the Audit and Performance Improvement Committee Chair.
- Of the audits finalised in 2017-18, seven were undertaken by external service providers, these include:
  - JACS Assurance Map (O'Connor Marsden)
  - A Procurement Audit (RSM)
  - AMC Detainee Trust Account Fraud Risk Assessment (KPMG)
  - Warrant Procedural Review (KPMG)
  - Statement of Performance Recommendations Review (O'Connor Marsden)
  - Human Rights Commission, Public Trustee and Guardian, and 12 Moore Street Business Continuity Tests (Oakton)
  - Bushfire Preparedness Risk Assessment (Euan Fergusson Pty Ltd)
- An additional three reviews were completed internally, these include:
  - Accountability Indicators Review
  - Review of Security of Ambulance Medication Kits
  - HP Records Manager 8 Access Controls Review

Cleared as complete and accurate: 01/11/2018  
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Lead Directorate: Justice and Community  
Safety

TRIM Ref: JACS2018/1130-010-010

**Portfolio/s:** JACS Ministers

**ISSUE: JACS EXECUTIVE RETREAT**

This issue is referenced to a question on notice for ACT Health regarding expenditure on their executive retreats.

**Talking points:**

- JACS have held two Executive Retreats in 2018, on 27 March and 2 October, at the Yarramundi Reach Cultural Centre.
- The Retreats were designed for executives across the directorate to share their experiences and challenges; strengthen their leadership capabilities; enhance collaboration; ensure compliance across the directorate; discuss topics relating to strategic priorities and social inclusion; and build the organisational culture.
- The total expenditure for the October Retreat including speaker fees was \$5,116.36 (excluding GST).
- The catering providers for the retreat were Koori Kulcha Aboriginal Corporation which is a Canberra Business Region Joint Organisation (CBRJO) Indigenous Supplier, and the Alexander Maconochie Centre (AMC) Bakery. Both social enterprises were engaged as part of the Directorate’s commitment to support services via social procurement.

**Key Information**

- The October 2018 Executive Retreat covered the following topics relating to JACS strategic priorities and was facilitated by internal and external stakeholders and speakers.

Topics	Facilitators
Our leadership in human rights	Dr Helen Watchirs, President, ACT Human Rights Commission
Our leadership in workplace health and safety	Elissa Clarke, Principal Solicitor, ACT Government Solicitor
Our leadership in engaging people with disability	Wayne Herbert, Member of Government ACT Disability Reference Group, and Deputy Chairman of the ACT LBGTIQ Ministerial Advisory Council

Cleared as complete and accurate: 19/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
 Contact Officer name: Ext:  
 Lead Directorate: Justice and Community Safety

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# ANNUAL REPORT HEARING BRIEF

Our leadership in preventing and responding to men’s violence against women	Penny Pestano, Service Director, Canberra Rape Crisis Centre; Simon Port, Coordinator Violence Prevention Services, EveryMan; and Dearne Weaver, Client Services Director, Domestic Violence Crisis Service (DVCS)
Leadership Commitment and Close	Alison Playford, Director-General

- To organise the program, the Directorate procured services from the following social enterprises and/or with cultural significance:

Service Provider	Item	Cost (ex GST)
Yarramundi Reach Cultural Centre	Venue Hire for the session	\$636.36
Koori Kulcha Aboriginal Corporation	Catering of lunch	\$2,200.00
Alexander Machonochie Centre Bakery	Morning tea	\$280.00
Inform Communicate Motivate International (ICMI)	Wayne Herbert – Speaker Fee	\$2,000.00
<b>TOTAL</b>		<b>\$5,116.36</b>

## Background Information

- As part of their leadership development, JACS executives meet twice a year with the purpose for them to seek to strengthen their leadership capabilities, ensure compliance across the Directorate and build organisational culture.

Cleared as complete and accurate: 19/10/2018  
 Cleared by: Executive Director Ext: 55132  
 Information Officer name: Virginia Hayward  
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 Lead Directorate: Justice and Community Safety

**ISSUE: Misconduct matters (excluding ACTCS and ESA)**

**Talking points:**

- During the 2017-2018 financial year, the Justice and Community Safety Directorate (excluding ACT Corrective Services and ACT Emergency Services Agency) undertook one preliminary assessment into alleged fraudulent activity, which progressed to a formal misconduct investigation.
- The individual concerned resigned prior to the final sanction decision being made. The amount of money involved was less than \$1,000.
- No preliminary assessments were conducted into Bullying and Harassment.
- The total number of preliminary assessments and misconduct investigations undertaken in 2017-2018 demonstrates a reduction in both processes in comparison to former financial years.
- In comparison, the 2016-2017 financial year had:
  - Four preliminary assessments, with three matters relating to Bullying and Harassment.
  - One of the four matters progressed to a formal misconduct investigation.
  - Three matters did not proceed beyond a preliminary assessment. Two matters were finalised via remedial actions including counselling and training. An investigation was not considered to be warranted for the final matter.

**Key Information**

- The directorate remains committed to addressing all allegations of misconduct, including Bullying and Harassment, with a view to ensuring that appropriate action is undertaken.

Cleared as complete and accurate: 29/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext:53307  
Lead Directorate: Justice and Community Safety

- This commitment is demonstrated by the ongoing undertaking of processes outlined in relevant Enterprise Agreements, including preliminary assessments, formal misconduct investigations and/or remedial actions including counselling and mediation.
- The directorate is also committed to the ongoing provision of Respect, Equity and Diversity (RED) training, attended by both new and existing employees.

### **Background Information**

- The single preliminary assessment undertaken in 2017/2018 that proceeded into a formal misconduct investigation related to the claiming and reimbursement of an allowance to which the staff member was knowingly not entitled.
- Information regarding investigations into alleged breaches of Section 9 of the *Public Sector Management Act 1994*, including Bullying and Harassment are reported in the ACT Government State of the Service Report 2017-2018.
- All data captured is reported collectively for all directorates.
- Misconduct data for JACS was also recently provided in response to a Question on Notice (QON), reference document MIN2018/003809.
- Detailed data relating to misconduct matters captured from 2015 shows that for the 2015-2016 financial year:
  - Eight preliminary assessments were conducted, with seven matters relating to Bullying and Harassment. Five of the seven Bullying and Harassment matters involved the submission of claims and counterclaims by a specific workgroup.
  - Six of the eight matters progressed to a formal misconduct investigation, five of which related to Bullying and Harassment.
  - Two matters did not proceed beyond a preliminary assessment due to insufficient evidence.

Cleared as complete and accurate: 29/10/2018  
Cleared by: Executive Director Ext: 55132  
Information Officer name: Virginia Hayward  
Contact Officer name: Justine Lowder Ext:53307  
Lead Directorate: Justice and Community Safety

**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety

**ISSUE:**       **Funding for Justice Reinvestment trials and other crime prevention initiatives**

**Talking points:**

- The ACT Government made a four year commitment to develop an ACT Justice Reinvestment Strategy, which supports the Government’s commitment to reduce recidivism by 25% by 2025.
- The Justice Reinvestment Strategy was developed across government and in partnership with the community and academia.
- The Strategy identifies the drivers of crime and the cost of the criminal justice system with a view to using targeted, evidence-based responses to strengthen the way our justice system responds to offenders and helps victims.
- There are two main streams of work in the Justice Reinvestment Strategy:
  1. Building an evidence base to support decisions about when, how and what we need to do to reduce crime.
  2. Developing and operationalising trials which focus on reducing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system
- There are two Justice Reinvestment trials in operation in the ACT for Aboriginal and Torres Strait Islander people. The family-centric service support trial **Yarrabi Bamirr** and the **Ngurrambai Bail Support Trial**.
- The **High Density Housing Program** is a key, evidence based initiative that will support the government’s commitment to reduce recidivism

Cleared as complete and accurate:	01/10/2018	
Cleared by:	Executive Director	Ext: 70522
Information Officer name:	Kelly Williams	
Contact Officer name:	Natalie Brown	Ext:50744
Lead Directorate:	Justice and Community Safety	

# ANNUAL REPORT HEARING BRIEF

Program	Description	Funding details
Yarrabi Bamirr (Ngunnawal words for 'Walk Tall')	<p>A family-centric intensive service support model with Aboriginal and Torres Strait Islander families to improve life outcomes and prevent contact with the justice system. Currently delivering to 20 families (50 adults and 53 children) through three agencies:</p> <ol style="list-style-type: none"> <li>1. Winnunga Nimmitjiah</li> <li>2. Mulleun Mura (Women's Legal)</li> <li>3. Aboriginal Legal Service</li> </ol> <p>Preliminary research from the ANU evaluation indicate Yarrabi Bamirr has provided strong benefits to families including keeping families together, and preventing homelessness including keeping people out of prison.</p>	<p>\$850,000 in 2016-17 from the Confiscation of Criminal Assets Trust fund (CAT fund) to establish the Trial.</p> <p>\$226,000 in redirected funds from the AJC underspend from 2017-18 budget directly funded three agencies - Mulleun Mura \$98,000, ALS \$78,000, and Winnunga \$50,000.</p> <p>Further funding to support the ongoing delivery of Yarrabi Bamirr being sought through the budget process.</p> <p>x</p>
Bail Support Trial- (Ngurrambai- words for 'I see, I listen, I understand')	<p>Designed to reduce the number of Aboriginal and Torres Strait Islander people on remand and reduce the amount of time spent on remand.</p> <p>Delivered by the Aboriginal Legal Service</p> <p>Currently being evaluated by the ANU</p>	<p>\$0.400m provided in 2016-17 through the Confiscation of Criminal Assets Trust fund (CAT fund). \$370,000 to ALS over a two year period to conduct the trial and \$30,000 to evaluate the trial. Funding ends November 2019.</p>
High Density Housing Program	<p>A multi-agency, service facilitation initiative that works with high and complex needs residents on Ainslie Avenue to prevent or reduce opportunities for crime, develop pro-social and law abiding community engagement and facilitate access to justice, health, education and employment services</p>	<p>The program was funded on a non-recurrent basis from the 2015-16 Budget at \$210,000 per year for two years through a combination of the budget (\$160, 000 per year) and supplemented through the Crime Prevention Fund</p>

Cleared as complete and accurate: 01/10/2018  
 Cleared by: Executive Director Ext: 70522  
 Information Officer name: Kelly Williams  
 Contact Officer name: Natalie Brown Ext:50744  
 Lead Directorate: Justice and Community Safety

# ANNUAL REPORT HEARING BRIEF

		<p>(\$50, 000 per year) to 31 December 2018</p> <p>A further \$285,000 (non-recurrent) funding was provided in 2018-19 budget to continue the program at the current Ainslie Avenue sites and expand the program to a new site at Illawarra Court, Belconnen. This funding is to 30 June 2019.</p>
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## Recent Budget Commitments

In 2018-2019, \$1.021m was provided for the following initiatives:

- \$285, 000 on continuing the Ainslie Avenue based High Density Housing Program and expanding it to Illawarra Court until June 2019;
- \$150, 000 on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$152, 000 on a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT;
- \$434, 000 for the continued development of, and operationalising of initiatives within, the justice reinvestment program. This funded staff within the Legislation. Policy and Programs as follows;
  - SOG a Justice Reinvestment Manager \$189, 000,
  - SOG C Trial Co-ordinator \$143, 000
  - SOG B Clean Street Time for 6 months \$84, 000
  - Uplift ASO6 to a SOG C \$16, 000

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TO BE PROVIDED

TRIM Reference

JACS2018/1130-014-004

**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety

**ISSUE:** **Restorative Justice Unit Statistics for 2017-18; update on Phase 3 and direct personal response for eligible survivors of child sexual abuse.**

**Talking points:**

- **Restorative Justice (RJ)** supports people who are affected by crime to come together to address their unmet justice needs in a safely guided voluntary process. RJ conferences may be face to face or indirect depending on the needs and wishes of participants. Convenors guide a structured dialogue to assist a full and honest discussion about the offending behaviour, its impact on those harmed and what is required to put things right and prevent further harm.
- **The Restorative Justice Unit (RJU)** is funded by the ACT government and operates in accordance with the *Crimes (Restorative Justice) Act 2004*. The RJU began Phase 1 of operation in January 2005 beginning with less serious juvenile offences, moving to Phase 2 in February 2016 including adult offences and more serious juvenile offences and, as of 1 November 2018, is now in its third and final phase, accepting referrals for sexual and family violence offences.
- **Referrals** – In 2017-18, the Restorative Justice Unit (RJU) received a total of 260 referrals which is the same number of referrals received in 2016-17.
- ACT Policing and the Courts remained the strongest referring entities in 2016-17.
- These referrals included 555 offences, down 3% from the 573 offences referred in 2016-17; 280 offenders, representing a 6 % decrease from the 297 offenders referred in 2016-17; and 476 victims, representing a 6% decrease from the 504 victims referred in 2016-17.
- A total of 159 adults and 121 young offenders were referred to restorative justice in 2017-18. Of the offences referred, 494 were less serious in terms of maximum potential penalties, while 61 represented serious offences<sup>1</sup>.

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Statistics related to conferences in 2017-18 include conferences for some offences that were referred in 2016-17 (28 referrals received in 2016-17 went to conferences in 2017/18).

- **Conferences** – 81 matters (28 of those were first referred in the previous 2016-17 FY and 53 were referred in the 2017-18FY) were found eligible and suitable to proceed to conference by RJU. Of these, 74 (28 from 2016-17 + 46 from 2017-18) referrals were finalised and seven were still actively being monitored in agreement stage.
- RJ is a voluntary process and issues of eligibility, motivations, suitability, and availability of participants are all factors that influence whether a matter will or won't proceed to conference. A convenor must put as much, sometimes more effort into determining the unsuitability of a matter as the suitability and readiness of a matter to proceed to conference.
- 157 referrals received in 2017-18 were declared not suitable or not eligible, (compared to 141 referrals in 2016-17). Of these 157 matters, 16 were found ineligible for multiple reasons, including: the ineligibility of Commonwealth offences (includes offences such as trespass on Commonwealth premises); Phase 3 offences being referred such as family violence offences, which were not yet eligible in the 2017-18 financial year, and doubled-up referrals from ACT Policing and the Childrens Court.
- Conferences in 2017-18 included 53 young offenders, 35 adults and 102 victims. Of these conferences, 67 were conducted face-to-face and 17 were indirect (that is, through convenors at a distance, by sound recording, video or written).
- Total conferences decreased 29% compared to 2016-17. The decrease in matters proceeding to conference appears to be partially attributable to a rising proportion of adult offender to young offender matters (from 43% to 57% in 2016-17 to 57% to 43% in 2017-18).
- Adult matters proceed to conference far less readily than juvenile matters which may reflect attitudes among the community (and victims) that adult offenders are set in their ways, do not deserve a victim's time, or represent a greater personal threat to a victim.
- More referred matters have been of a personal nature (assaults) rather than property related matters (damage or theft) for which there is less emotion from victims and more motivation to recoup tangible losses.

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- Matters referred by ACT Policing have a greater proportion of victims participating as opposed to the Courts (35% compared with 15%).
- **RJ Agreements and Compliance** - In 2017-18, 117 Restorative Justice Agreements were formed. Of these, seven are being monitored, 60 were complied with, 16 were not complied with and 30 of the conferences held satisfied the victim's needs. Four agreements reached in 2017-18 were substantially complied with. Excluding the agreements still being monitored, this has resulted in an average compliance rate of 85% for the financial year and 89% since 2005. This compares to an average compliance rate of 87% in 2016-17. The overall compliance rate since 2005 remains the same.
- Despite a lower number of conferences there remains a strong compliance rate with RJ Agreements from conferences which can be attributed to accurate assessment and quality conferencing.
- The RJU is working to find ways to spread an awareness that RJ can have shared benefits for victims and offenders. This includes updating the old website and engagement in media and community awareness activities to provide information to the general public about the unique possibilities that restorative justice can offer, when matters and participants are suitable.
- The RJU has met with ACT Policing Victim Liaison Officers (VLO's) to discuss what the benefits of RJ can mean for victims, how convenors manage risks and safety in the process and the possibilities for VLO's to be providing RJ pamphlets for victims of crime whose matters are before the court.
- **Aboriginal and Torres Strait Islander Young People Involvement** - In 2017-18, 11 Aboriginal and Torres Strait Islander young people were referred to restorative justice by ACT Policing compared to 20 in 2016-17. This represents a drop of 45% from the 2016-17 FY. All of these were referred for less serious matters and as a diversion from court. A further 10 Aboriginal and Torres Strait Islander young people were referred by the Childrens Court in 2017-18, compared with six young people in 2016-17 .
- Of the total 21 young Aboriginal and Torres Strait Islanders referred, only two were found eligible and suitable to proceed to conference. Reasons why young Indigenous young people did not participate included 'failed to attend appointments'(5), 'disputes responsibility'(1), 'declines to participate'(3) or 'was unable to be contacted'(7). Four agreements were

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formed in conferences within 2017-18, one conference agreement formed in 2016-17 extended into 2017-18

- Of these, one agreement was complied with, three conferences were deemed satisfying without a formal agreement and one agreement was not complied with.
- **Aboriginal and Torres Strait Islander Adult Involvement** – A total of 25 adult Aboriginal and Torres Strait Islander offenders were referred in 2017-18 which compares to 14 referred in 2016-17. Four referrals included serious offences and one of those serious offences was addressed in a successful conference. Four adult Indigenous offenders referred in 2017-18 for less serious offences participated in conferences. Of these, one agreement was still being monitored and in the three other matters the conference itself satisfied participant's needs.
- In an effort to improve participation and positive outcomes for Aboriginal and/or Torres Strait Islanders in RJ conferences the RJU has been trialling an Indigenous Convenor since April 2018. The convenor role carries the authority to make decisions around conferencing and ensures the process is safe and fair for everyone.
- Having an Indigenous Convenor helps to build cultural safety and trust in the RJU process for Indigenous clients and the Aboriginal and Torres Strait Islander community.
- The worker in this position has been trained in best practice RJ conferencing and has conducted around six successful conferences to date.
- The RJU has two Indigenous Guidance Partner positions (one of which is being trialled as the Indigenous Convenor position) – these positions are employed to ensure that Aboriginal and Torres Strait Islander people are given emotional and practical support to access the RJ conferencing process.

### **Restorative Justice and Phase 3**

On 1 November 2018, the RJ scheme moved into Phase 3, its final stage, which means that sexual and family violence offences are now eligible to be referred to restorative justice. The Restorative Justice Unit has worked closely with stakeholders throughout its preparation for Phase 3. This has included involving relevant agencies in interagency meetings, training opportunities, in formal reference group meetings and in collaborative workshops.

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- A lengthy consultation process was undertaken by the Restorative Justice Unit to develop the Crimes (Restorative Justice) Sexual and Family Violence Offences Guideline 2018, which supports implementation of Phase 3.
- RJ is a voluntary process. A referral to RJ is an offer not an imposition. Most victims are pleased to know about all the services available to them in the aftermath of crime. Conferences can be either face to face with choice of venues or indirectly convened, via phone or video link up or written communication.
- Because RJ is a voluntary scheme and not a mandated program, nobody is under any pressure to participate. The RJU will work hard to ensure that offenders are not exerting any hidden coercion and control to pressure the victim into participating against their better interests.
- Not all victims will wish to engage in RJ for sexual or family violence offences, but for those who do, it can be an important and meaningful way to address their injustice. We can never assume to know what a victim might need or want to include in their justice experience.
- All convenors in the unit have completed best practice Restorative Justice Conferencing training delivered by Dr Alikki Vernon and Dr David Moore, recognised around the world as leading experts and trainers. Dr Moore is the president of Victoria's Association for Restorative Justice.
- Convenors receive practice development supervision once a month and have line supervisors to discuss matters and receive ongoing case support.
- When the RJU receives a referral for a sexual or family violence offence, a careful review of the referral and contact with other criminal justice agencies, most notably with ACT Policing and DVCS, occurs to determine eligibility and ascertain safest ways to approach victims and other participants to provide them with the information that RJ is available to them if they wish to know more.
- If a referral continues past this point, the Restorative Justice Unit will assess whether the victim is linked in with existing supports and if not, strongly encourage connection with a support agency. Other safeguards for victims include supportive work with their communities of care within the restorative justice process.

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- People who have used violence will need to be accepting responsibility for their behaviour and making up-front commitments to accept support in their desistance from physical, emotional, psychological violence, coercion or controlling behaviours, before they can be considered suitable for conference.
- Assessment, including the use of validated risk assessment tools such as the Family Violence Risk Assessment Tool, will focus on establishing whether coercion and control factors are at play as well as an awareness of the offender's formal and informal history of offending. Safety planning will be established to articulate smoothly with the victim's existing support networks to ensure continuity of risk management.
- If the referral has been made post-sentence at the initiation of the victim, offenders are not automatically notified of the referral which gives the victim a chance to consider the potential benefits and risks and whether to pursue a RJ process further or not without any unwanted pressure.
- Under this model, victims can explore their motivations, the possible benefits and risks of participation, and have their assumptions or expectations about conferencing reality tested within a timeframe that suits them.
- Both offenders and victims will be encouraged to engage in the restorative justice process with supporters where appropriate. These communities of care will be assessed and prepared to ensure that they do not condone, minimise or mitigate any offending behaviour. The victim's experience will be greatly validated by their community of care bearing witness to the behaviours they have been exposed to and offering their ongoing support.
- Professional counsellors and the police informant who first responded to an incident can also attend a restorative justice conference to lend weight to what has happened and provide extra layers of safety and support.

### **Restorative Justice and the National Redress Scheme**

The RJU has also been engaged to facilitate Direct Personal Response (DPR) processes with survivors and institutional representatives for applications made against the ACT Government under the National Redress Scheme for people who have experienced institutional child sexual abuse.

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- DPR is an opportunity for a person who has experienced abuse to have their story heard and the impact of that abuse acknowledged by a representative of the institution. It also offers an opportunity, where appropriate, for the institution to provide the person harmed an apology or statement of regret as well as an assurance that the institution has, and will continue to take, steps to prevent abuse occurring again.
- A DPR process may be facilitated as a face-to-face meeting or through indirect means such as a telephone conference or written communication between participants. Participation is voluntary and participants may withdraw at any time.
- Suitably trained and experienced convenors from the RJU are available to facilitate a DPR. Convenors explain the process and options available to assist people to make informed decisions about their participation in the DPR process.
- Existing relationships and protocols between the RJU and the AMC will be extended to further support DPR. This will allow for the delivery of information, readiness and preparation sessions (as well as DPR processes) within the custodial environment for detainees who accept offers of redress under the scheme.

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## Background

Restorative Justice is voluntary and only occurs with the consenting participation of required participants (victim/s and offender/s). RJ involves the careful assessment of all parties to determine the safety and suitability of a matter to proceed to conference. Conferences can be either face to face with choice of venues or indirectly convened, via phone or video link up or written communication.

More serious and/or complex offences involve a more thorough assessment of all participants and the overall suitability of a matter to proceed to conference.

Conferences involving serious offences involve an obligation to include appropriate supporting participants to ensure the maximum benefit and wellbeing of all parties.

### *Resourcing history*

In the 2004-05 financial year the ACT Government announced funding for the Restorative Justice Unit which began operating in January 2005 under the legislative guidance of The *Crimes (Restorative Justice) Act 2004* (the Act). It operated in Phase 1 for 11 years, managing referrals for less serious offences committed by juvenile offenders.

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In the 2011-12 budget, the Government announced funding of \$607,000 over four years for the Indigenous Guidance Partner (IGP) ASO6 position and leased vehicle within the Restorative Justice Unit. The need for the position had been identified by a number of stakeholders, including the ACT Aboriginal and Torres Strait Islander community and the Restorative Justice Unit in 2007-08.

In the 2015-16 budget, the Government announced funding of \$2.058 over four years for the expansion of RJ to include serious offences and offences committed by adults as well as juveniles. The expanded staffing included four new positions (three convenors and an admin/court liaison worker) and funding to provide professional supervision of convenors and training to build the RJU's capacity to manage domestic and family violence and sexual offences matters which will become eligible in 2018.

In the 2016-17 budget, the Government announced funding for a second ASO6 Indigenous Guidance Partner who could assist with the increase in referrals following the expansion of the RJU. Funding is being sought to create an ongoing identified ASO6 Indigenous Convenor position.

The unit's total FTE permanent staffing component is 11 FTE.

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\*2018\*000083-031

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: 2018-19 Budget Summary – Minister for Justice, Consumer Affairs and Road Safety****Talking points:**Human Rights Commission

- **\$557,000** over two years will be invested to upgrade the Human Rights Commission digital capabilities and implement a single case management system.

Reducing recidivism by 25 per cent by 2025

- **\$1 million** in 2018-19 to reduce recidivism by supporting initiatives which prevent crime and address offending behaviour, including:
  - **\$84,000** Aboriginal Victim Liaison Officer for the Victims of Crime Office
  - **\$285,000** to expand the High Density Housing Community and Safety Program
  - **\$152,000** to establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process for Aboriginal and Torres Strait Islander youth in the justice system
  - **\$434,000** for the continued development of, and operationalising initiatives within the justice reinvestment program

The Government will also protect and support the victims of crime through the justice system by investing:

- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response. ACT Health will contribute \$0.184 million from the Health Central Provision to the administration of the scheme.

**Background Information**

- The ACT’s budget announcements will include initiatives relating to:
  - Better Government – Human Rights Commission digital capability;

Cleared as complete and accurate: 23/07/2018  
Cleared by: Deputy Director-General Ext:53504  
Information Officer name: Richard Glenn  
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## QUESTION TIME BRIEF

- More support for families and inclusion – Reducing recidivism;
- More support for families and inclusion – Implementing the Commonwealth Redress; and
- Scheme for Institutional Child and Sexual Abuse.

Cleared as complete and accurate: 23/07/2018  
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**ISSUE:        REDUCING RECIDIVISM****Talking points:**

- The Government has set a goal to reduce recidivism by 25 per cent by 2025.
- Reducing recidivism in the ACT is a shared responsibility across the justice and human service system. The government will work closely with government stakeholders, the community sector, academia and those with lived experience to develop the Recidivism Plan.
- Developing a Recidivism Plan to achieve this ambitious target will require a package of work to effectively change the life trajectories of some of Canberra's most vulnerable citizens who have complex needs.
- A key contribution to the Recidivism Plan, is the four year commitment to develop a Justice Reinvestment Strategy (2014-18).
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.

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- In the 2018-19 budget the government provided \$0.955m of support for families to reduce their contact with the justice system.
- As part of this work, the Government is expanding the High Density Housing Community and Safety Program, which facilitates programs that reduce crime and antisocial behaviour through community building at public housing sites in the ACT.
- We have also provided funding for a dedicated Liaison Officer through Victim Support ACT to better support Aboriginal and Torres Strait Islander victims of crime, and establish Warrumbul Court in the Children's Court to provide a culturally appropriate sentencing process to help address the overrepresentation of young Aboriginal and Torres Strait Islander people in the justice system.
- These initiatives feed into the government's broader commitment to develop a recidivism plan.
- Important to success in reducing recidivism in the ACT will be addressing the onset of offending and the cycles of offending.

**Key Information**

- The Government traditionally measures recidivism using the Report on Government Services. ROGS measures one part of the justice system, whether a person has received a conviction in a court and whether they have received a second conviction within a two year period.
- The measure does not include other considerations such as police discretion when dealing with offenders, using diversion options (such as restorative justice) or court responses that may prove an offence but not record a conviction.
- It also doesn't measure if there is a change in the frequency or severity of offending.
- The 2017 Prisoners in Australia publication by the ABS found that 75 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory (the national average was 57 per cent).
- The ACT consistently has the lowest imprisonment rate in Australia per head of population. In 2017 the adult imprisonment rate was 141 prisoners per 100,000 a decrease from 144 prisoners per 100,000 (2016) adult population compared to the national imprisonment rate of 215.9 prisoners per 100,000 population.
- This means that to change our recidivism level is not a simple step or one set of initiatives, it will be about holistic change across the system and with offenders and their families to change inter-generational offending patterns.

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Safety

- The Reducing Recidivism Advisory Group met and discussed:
  - how to define and measure recidivism in the ACT
  - our ACT data and how it will shape where we direct our efforts
  - review and confirm that the strategic framework, Building Communities Not Prisons, is an appropriate articulation of the work we will do in the Plan
  - initiatives that will change the trajectory of our most vulnerable Canberrans (and their families)

### **Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- The 2018-19 budget process provided \$0.434 for the continued development of, and operationalising of initiatives within the Justice Reinvestment Program which underpins the reducing recidivism approach. Funding will be provided to support the:
  - senior officer to progress the Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The 2018-19 Budget also provided \$0.285m to continue the Ainslie Avenue based High Density Housing Program and expanding it to Illawarra Court.
- \$0.150m for an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m for a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

Cleared as complete and accurate: 17/10/2018  
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Lead Directorate: Justice and Community Safety

TRIM Ref: 2018/000083-029

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: REPEAL OF CIVIL UNIONS ACT****Talking points:**

- Since the Commonwealth Government amended the *Marriage Act 1961* (Cwth) (Commonwealth Marriage Act) to allow couples to marry regardless of their sex or gender, no one has been eligible to enter or solemnise a Civil Union under ACT law.
- The Government has considered whether it is desirable to repeal the *Civil Unions Act 2012* to prevent misapprehension that Civil Unions can still be validly entered or solemnised in the ACT.
- Because repealing the Civil Unions Act could temporarily affect the recognition of civil unions in other states and territories, and under Commonwealth laws, we have decided not to repeal the Act at this time.
- The Government continues to recognise all Civil Unions that were entered into in the ACT before marriage equality (9 December 2017).
- The Justice and Community Safety Directorate (JACS), Access Canberra and the Office for LGBTIQ Affairs will be working together to ensure that all couples and celebrants are aware of this.
- The Government will look for future opportunities to update gendered references to marriage across the ACT's statute book. Such changes would enhance the equal recognition of same-sex marriages in ACT legislation.

**Key Information**

- Civil unions offer a legally recognised relationship for same-sex couples that is to be treated identically to a marriage for the purposes of territory laws.
- As of 20 August 2018, 53 civil unions were registered in the ACT.
- During Estimates hearings on 26 June 2018, you indicated the ACT Government Solicitor (ACTGS) had advised that maintaining the *Civil Unions Act 2012* presents a risk that it could be deemed not consistent with the Commonwealth Marriage Act as that Act now covers the field.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Deputy Executive Director Ext:70674  
Information Officer name: Daniel Ng  
Contact Officer name: Kevin Campbell Ext: 51474  
Lead Directorate: Justice and Community Safety

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**Background Information**

- The Civil Unions Act was introduced to enable couples who were unable to marry their same-sex partner under the Commonwealth Marriage Act to enter into a legally recognised relationship.
- On 8 December 2017, the Commonwealth Parliament passed the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwth) (Marriage Amendment Act). This Act amended the definition of marriage in the Commonwealth Marriage Act to enable same-sex couples to marry in Australia. It also introduced legal recognition of overseas same-sex marriages, including retrospective recognition of overseas same-sex marriages prior to 8 December 2017.
- Only natural persons who are not eligible to marry under the Commonwealth Marriage Act may enter into a civil union. Since the entry into force of the Marriage Amendment Act on 9 December 2017, persons of the same-sex have been eligible to marry under the Commonwealth Marriage Act. Therefore no one has been eligible to enter into a civil union since these amendments.

Cleared as complete and accurate: 15/10/2018  
Cleared by: Deputy Executive Director Ext:70674  
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TRIM Ref: 2018/000083-037

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME****Talking points:**

- The Government is committed to introducing a Charter of Rights for Victims of Crime. Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma being caused and encourage crime to be reported.
- The Charter will outline the rights of victims of crime, the obligations justice agencies have when dealing with victims, and establish a complaints resolution process where the Charter is breached.
- The Government is working closely with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- It is important for Government to listen to what victims have to say about our criminal justice system, and I thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period in July and August this year.
- A proposed model of the Charter is now being developed in close consultation with justice stakeholders.

**Key Information**

- Advice from the Directorate will shortly be provided regarding a summary of consultation feedback and a proposed model for the Charter. Feedback on the proposed model will be sought from the Victims Advisory Board at the next meeting to be held 28 November 2018.
- The Charter is likely to be implemented in the second half of 2019, and will include a package of reforms including legislation change and practical strategies to give victims rights and a complaints process where these are breached.
- Implementation of the Charter will be considered in the context of 2019-2020 budget.

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Safety

- The development of the Charter, Government implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations, and the Disability Justice Strategy share significant interest in improving access to justice in the ACT, particularly for those most vulnerable members of our community. The Government is considering these reforms in a cohesive way.
- The Charter is expected to replace the governing principles for the treatment of victims of crime in the *Victims of Crime Act 1994* (s4). Common feedback heard from victims of crime during consultations include wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions. Having a voice in the justice system is particularly important for diverse and marginalised community members.
- The Charter is building on the commitment of justice agencies to victims of crime, and existing and emerging good practice across justice agencies, ACT Government and the community sector.
- All other states and territories in Australia have introduced victim rights as principles or guidelines. The Government seeks to build on the ACT's Human Rights framework by providing community members with actionable rights linked to an accountability mechanism.

### **Background Information**

- The Parliamentary Agreement to the 9<sup>th</sup> Legislative Assembly commits to the introduction of an ACT Rights of Victims Charter.
- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.
- The ACT has a strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory Victim of Crime Commissioner role (2010) and its integration into the Human Rights Commission (2016).
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectations that victims are central to justice processes is growing. Victim rights will be upheld in a balanced way with the rights of defendants.

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TRIM Ref: 2018/000083-038

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: VILIFICATION AND DISCRIMINATION****Talking points:**

- The ACT condemns vilification and discrimination.

Discrimination

- The *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person in a range of areas of public life including education, employment and in receiving goods and services.
- Discrimination is prohibited on 24 grounds – including gender and sexual orientation. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.
- In August 2016, the grounds of unlawful discrimination were expanded to protect against discrimination on the basis of attributes such as employment status, immigration status and being a victim of domestic and family violence.
- All jurisdictions' anti-discrimination laws contain general exceptions for religious schools though these do vary in scope and application.
- Section 33 of the *Discrimination Act 1991* has an exception to otherwise unlawful discrimination for religious schools which provides that it is not unlawful for a religious school to discriminate in relation to the employment of, or provision of education to, a person if this occurs in good faith to avoid injury to "the religious susceptibilities of adherents of that religion or creed."
- The ACT is not aware of any instances in which this exemption has been invoked to exclude a student from school on the basis of their sexual orientation or gender identity.
- The Government would be concerned if there have been instances of such behaviour.
- This is particularly the case, given that the Human Rights Act requires that all Territory laws be interpreted insofar as possible in a manner consistent with rights under that Act.

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- On 13 October 2018, Prime Minister Scott Morrison said amendments to the Commonwealth *Sex Discrimination Act* would be introduced into the Parliament to protect students from being expelled because of their sexuality.
- The Government is considering amending the Territory's *Discrimination Act* to better align the exceptions for religious schools to better align them with community expectations.

### Vilification

- It is also against the law to vilify a person or group of people on the grounds of race, sexuality, gender identity and HIV/AIDS status. Racial vilification was expanded in 2016 to apply to vilification on the grounds of religious conviction and disability.
- Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people. In 2016, the definition of vilification was expanded to include conduct that 'incites revulsion'.
- If anyone is subject to vilification or discrimination in the ACT, I encourage them to contact the ACT Human Rights Commission (HRC) to talk through the complaints process.

### **Key Information**

The Commonwealth Expert Panel to examine whether Australian law adequately protects the human right to freedom of religion delivered its report on 18 May 2018.

The ACT is considering amending the *Discrimination Act 1991* to better protect people of the LGBTIQ community.

Changes to the *Discrimination Act 1991* in August 2016 followed recommendations of the ACT Law Reform Advisory Council (LRAC). The Justice and Community Safety Directorate (JACS) is due to begin work on the second phase of reforms to the *Discrimination Act* in November 2018.

The ACT HRC is an independent agency that promotes the human rights and welfare of people in the ACT community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.

The HRC does not presently accept complaints against members of ACT Policing about discrimination in the course of their role. As ACT Policing services are contracted from the Australian Federal Police, this would potentially contravene the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) by purporting to bind a Crown entity.

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During Estimates hearings on 26 June 2018, the Discrimination Commissioner, Ms Karen Toohey, suggested there may be scope for the ACT Legislative Assembly to legislate to allow the HRC to accept complaints against ACT Policing. JACS is presently considering this matter.

Serious vilification is an offence under the *Criminal Code 2002*. The maximum penalty is \$7,500 (50 penalty units).

### **Background Information**

On 22 November 2017, former Prime Minister, Hon Malcolm Turnbull, established an Expert Panel to examine whether Australian law adequately protects the human right to freedom religion. On 18 May 2018, the Panel delivered its report to the Prime Minister.

On 9 October 2018, Fairfax Media reported that the yet-to-be published Report made recommendations regarding the ability of religious schools to discriminate against students and teachers on a range of grounds including sexuality.

However, when the recommendations were released in full it became clear that the Panel was in fact referring to existing exception provisions in the Commonwealth Sex Discrimination Act. Similar exceptions exist for religious schools in most States and Territories.

The Panel report actually recommends narrowing these exceptions so that they do not allow discrimination in relation to grounds such as pregnancy or intersex status. Nevertheless, they recommend that the exception allowing schools to discriminate on grounds of sexuality and gender identity be retained, but subject to a limitation that a school have a public policy outlining its position in relation to the matter and explaining how the policy will be enforced.

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TRIM Ref: 2018/000083-039

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RESTORATIVE JUSTICE****Talking points:**

- Ensuring that victims of crime have the opportunity to access restorative justice if and when they need it is a Government priority.
- Recent changes made by the *Crimes (Restorative Justice) Amendment Act 2018* removed legislative barriers to referring entities making referrals to the Restorative Justice Scheme. It also made amendments to strengthen the Restorative Justice Unit's ability to manage family violence and sexual offences following the commencement of Phase 3.
- Phase 3 of the Restorative Justice Scheme will commence on 1 November 2018. This will mean that victims of family violence and/or sexual offences can access restorative justice and that victims will not be excluded from accessing restorative justice based on the particular offence they have experienced.
- The Restorative Justice Unit (RJU) has finalised guidelines and is refining operational manuals for the management of referrals for family violence and sexual offences in collaboration with local counselling agencies. It is acknowledged that these highly sensitive matters will require additional supports and expertise for those participating in the process.
- A model of Restorative Justice (RJ) that promotes a strong commitment to responsibility and accountability, educational and or therapeutic support for participants throughout the process and stringent risk management and safety planning is being adopted in the ACT.
- A significant reform included in the recent amendments to the restorative justice legislation allows victims to be directly referred at the post-sentence stage to RJ by the Victim of Crime Commissioner, victim advocates and supporters or victims themselves, without the offender's initial awareness or agreement. This is so that the victim can explore the potential benefits and risks of RJ without fear of coercion or influence by the offender. This will be especially important in phase three when family violence and sexual offences are referred to RJ.

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- The also changed the threshold of responsibility for less serious offences for young people to the person ‘doesn’t deny’ commission of the offence at the eligibility stage, acknowledging that many young people may be afraid to talk or are advised not to talk and make admissions upon apprehension in accordance with their legal rights.
- Changing the threshold for these offenders from ‘accepts responsibility for the offence’ to ‘doesn’t deny responsibility for the offence’ supports the referral of vulnerable young people, in particular those from the Aboriginal and Torres Strait Islander community who have historically difficult relationships with police and the courts.
- Accepting responsibility is still a key factor in a young person’s readiness for conference however and this is thoroughly assessed by RJU staff in the ‘suitability’ process. Young people who continue to deny responsibility for the commission of offences would have their matter returned to the referring entity as not suitable to proceed.

**Key Information**

- Phase 3 commencement day will finalise the rollout of the ACT’s Restorative Justice Scheme as it was originally envisioned by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee in 2003.
- The RJU is in consultation with local support agencies such as Relationships Australia, Menslink, Everyman Australia, the Domestic Violence Crisis Service, CatholicCare and Victim Support ACT to develop service provision agreements to support the rollout of Phase 3. The role of these service providers is to help prepare victims and offenders to participate in RJ conferences in ways that are safe and satisfying for all participants.
- Any person who has been impacted by an offence can seek a referral to restorative justice.

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## Background Information

### *Statistical information*

- The RJ scheme involved only referrals for young people and less serious offences between 2005 and 2016. In February, 2016 the scheme began accepting referrals for adult offenders and for serious offences for adults and young people.
- As at 30 June 2018, a total of 2,255 referrals had been received by the RJU since the scheme began. This includes a total of 2,482 young people and a total of 316 adults.
- A total of 1,492 conferences had taken place.
- The overall compliance of young people with RJ agreements is 90 per cent since the scheme began.
- The overall compliance rate of adults with RJ agreements is 83 per cent.

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: JUSTICE REINVESTMENT****Talking points:**

- The ACT government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The JR Strategy has developed a three by three approach to JR in the ACT. The three steps are:
  - Get the right people together at the right times with the information needed to make the best decisions for their community.
  - Get local data to help identify local problems and local solutions.
  - Use co-design principles to identify key programs and trials that prevent or delay people's contact with the justice system.

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The three pathways are:

- Place based – providing crime reduction and community strengthening programs and supports in the same location as the people who need them.
  - Point in the system – providing interventions at crucial points in the justice system, for example arrest, bail and remand, where a change to that part could reduce peoples future contact with the justice system.
  - Cohort – focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to this group.
- The JR Strategy involves six key projects: Justice System Cost Model; Justice and Human services system data snapshots; Justice services and programs map; Evaluation Framework; Yarrabi Bamirr (family-centric service support model with Aboriginal and Torres Strait Islander families) and Ngurrambai (bail support program for Aboriginal and Torres Strait Islander people).
  - The JR Strategy reinforces a number of strategic cross Government initiatives including the Aboriginal and Torres Strait Islander Agreement and Justice Partnership, the Human Services Blueprint and the Blueprint for Youth Justice.

### **Key Information**

- The JR Strategy was presented to the Human Services and Social Inclusion subcommittee of Cabinet on 28 September 2018.
- The first meeting of the Reducing Recidivism Advisory Group was held on 17 October 2018. The Group met to begin development of the Reducing Recidivism Plan which will set the strategic direction for achieving the Government’s commitment to reduce recidivism by 25 per cent by 2025.
- A JR and Reducing Recidivism Forum hosted by Minister Rattenbury is scheduled to be held on 5 and 6 December 2018.
- The Building Communities Not Prisons - Justice Reinvestment and Reducing Recidivism Forum will unite national and international participants in driving the conversation about reducing recidivism and justice reinvestment in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, are key contributors to this Forum.

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- The JR Strategy involves six key projects:
  - Yarrabi Bamirr (Ngunnawal words for ‘Walk Tall’): A family-centric service support model that works with Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system. In addition to the program delivered by Winnunga, the Aboriginal Legal Service (NSW/ACT) and Mulleun Mura (The Womens Legal Centre, ACT) were engaged to deliver Yarrabi Bamirr to at least 10 more families referred at the point of release from prison.
  - Utilising the expertise of these three Aboriginal-led agencies means that at least twenty local Aboriginal and/or Torres Strait islander families will now have access to the Yarrabi Bamirr model of support. Currently the three agencies are supporting 20 families (50 adults and 53 children). The preliminary research from the evaluation conducted by the Australian National University indicates Yarrabi Bamirr has provided strong benefits to families including keeping families together, preventing homelessness and keeping people out of prison.
  - Ngurrumbai (Ngunnawal words for ‘percieve, I see, I listen, I understand’): A bail support trial which works with Aboriginal and Torres Strait Islander people on bail to ensure compliance with bail orders. Launched in December 2017, the Bail Support program as at June 2018 has 28 clients registered with the program. Key issues for clients were accommodation, access to drug rehabilitation, transport to interstate legal obligations, and access to residential mental health services.
  - Justice System Cost Model: A model which costs the individual components of the current adult and juvenile ACT Justice System from the point of apprehension to post-sentence, in order to establish a baseline cost of the ACT’s Justice System.
  - Justice services and programs map: A project which aimed to create an evidence base of government and community sector programs that provide services and support to people who have contact, or are at risk of having contact, with the ACT criminal justice system including victims of crime and perpetrators of crime. A decision was made in May 2018 by Minister Rattenbury to no longer invest in the development of the Programs Map.
  - Justice and Human services system data snapshots provide local data to inform local solutions that change people’s contact with the justice system.
  - An evaluation framework consisting of program evaluations containing justice reinvestment measures.

### **Background Information**

- The 2014-15 Budget provided \$689, 000 over four years, to develop a whole of government justice reinvestment approach in the ACT. This funding was provided within JACS existing resources.

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## QUESTION TIME BRIEF

- In 2016-17 \$926, 000 was provided for the JR trials. The funds, from the 2016–17 Budget (\$76, 000) and the CAT fund (\$850, 000), were directed towards Aboriginal-run organisations, the Domestic Violence Crisis Service and ACT Policing to deliver Yarrabi Bamirr. A further \$226, 000 was provided in the 2017-18 Budget to support the JR Trials.
- In the 2018-19 Budget \$434, 000 was provided to continue the development of, and operationalising of initiatives within, the justice reinvestment program. Funding will be provided to support the:
  - Senior officer to progress Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - Remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The High Density Housing program also received \$285, 000 in the 2018-19 Budget for six months of funding for Ainslie Avenue and 12 months funding to expand the program to Illawarra Court.
- \$150, 000 on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$152, 000 on a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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TRIM Ref: 2018/000083-041

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: ABORIGINAL AND JUSTICE PARTNERSHIP****Talking points:**

- The Aboriginal and Torres Strait Islander Justice Partnership demonstrates the ACT Government's commitment to improving law and justice services and outcomes for Aboriginal and Torres Strait Islander people in the ACT.
- The Partnership takes a targeted approach to addressing the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system and includes detailed actions, measures and areas of accountability.
- The three key objectives of the Partnership are to:
  - reduce over-representation by reducing recidivism and increasing access to diversionary programs
  - improve access to justice services
  - improve data collection and reporting.
- Some major targets under the Partnership are to:
  - reduce the daily average Aboriginal and Torres Strait Islander detainee population at the Alexander Maconochie Centre, as a percentage of the total prison population, to 10 per cent
  - reduce the over-representation of Aboriginal and Torres Strait Islander young people in the youth detention system by 20 per cent over the life of the Partnership, from a 2012 baseline figure
  - increase the number of Aboriginal and Torres Strait Islander adults and young people being referred to and accessing diversionary criminal justice system programs, from a 2013 baseline
  - manage and support stakeholders to deliver effective justice related services

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## QUESTION TIME BRIEF

- improve the collection and reporting of Aboriginal and Torres Strait Islander data by criminal justice agencies by:
  - i. implementing data systems that are capable of collecting Aboriginal and Torres Strait Islander data and increasing access to public reports on Aboriginal and Torres Strait Islander data through better use of formal and informal communication channels.
- The Partnership consists of a total of 21 actions areas with 38 key measures that in some instances are jointly addressed by lead agencies bringing the total number of reportable action items to 79. On 3 April 2018, it was agreed by the ACT Aboriginal and Torres Strait Islander Elected Body that 42 reportable action items could be closed as they had either been completed or been considered to be consistently on track over the term of the Partnership. The objective of this decision was to allow reporting agencies to focus on those remaining 37 action items that still required work and attention.
- Progress on action items has changed since the Annual Report figures were compiled (p.29). As at the last reporting period (September 2018) the Aboriginal and Torres Strait Islander Elected Body raised concerns in relation to 13 remaining actions that it considered to be stalled or not likely to be delivered in the term of the partnership :
  - (See Attachment A for details).
- From January 2019 the Partnership will be combined into the ACT Aboriginal and Torres Strait Islander Agreement 2019 -2028 (the Agreement). This will be a cross-directorate Agreement under which each directorate will have a specific plan. It is planned for there to be four specified action plans (coinciding with ACT Aboriginal and Torres Strait Elected Body terms) over the ten year course of the Agreement.
  - Phase One – Action Plan – Jan 2019 to Jun 2020
  - Phase Two – Action Plan – Jul 2020 to Jun 2023
  - Phase Three – Action Plan – Jul 2023 to Jun 2026
  - Phase Four – Action Plan – Jul 2026 to Dec 2028.

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- JACS is well advanced in the development of its Action Plan which will consist of a number of specific, measurable, achievable and relevant targets aimed at improving law and justice services outcomes for the ACT Aboriginal and Torres Strait Islander community.

#### Key Information

- The Justice Partnership concludes at the end of 2018. At that time an analysis of each responding agency's (both government and non-government) performance against the specified actions, measures and areas of accountability will be undertaken and a comprehensive report outlining the many successes and remaining challenges from the Justice Partnership will be made available to the Minister in early 2019.

#### Background Information

- The ACT Government developed the first ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 in conjunction with the Elected Body in response to a joint report that the Attorney-General launched in 2008 by the ACT Council of Social Services/Aboriginal Justice Centre entitled *Circles of Support: Towards Indigenous Justice: Prevention, Diversion and Rehabilitation*.
- Governance arrangements under the Partnership include a Strategic Board Sub-Committee, an Advisory Group and an Aboriginal and Torres Strait Islander Caucus to oversee and drive progress.
- The Advisory Group is made up of representatives from agencies responsible for deliverables under the Partnership, including:
  - JACS:
    - ACTCS
    - ACT Courts and Tribunals
    - LPP
    - Victim Support ACT (run by Victims of Crime Commissioner)
  - CSD:
    - Children, Youth and Families
  - ACTP
  - Canberra Health Services including
    - Mental Health, Justice Health and Alcohol and Drug Services
  - Legal Aid ACT
  - Aboriginal Legal Service (NSW/ACT)
  - ACT Aboriginal and Torres Strait Islander Elected Body.

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The Caucus is a process used successfully by the Victorian Government to allow the local Aboriginal and Torres Strait Islander community to provide regular advice on the Victorian Aboriginal Justice Agreement. The process was quickly embraced by the Caucus as a platform for monitoring and contributing to the success of the Partnership.

## ATTACHMENT A

### STALLED ACTIONS

	ACTION No.	ACTION	LEAD AGENCY	COMMENTS
1	1.2.1	Develop specific programs for Aboriginal & Torres Strait Islander adult offenders under ACT Corrective Services supervision		ATSIEB continue to meet with various groups and work areas with this portfolio to progress and assess progress and to pursue opportunities for improvement
2	1.5.1	Review policies & practices on the management of Aboriginal & Torres Strait Islander clients to reduce barriers to accessing support services – Bail Support Program	JACS ATSIEB	ATSIEB will continue to review the impact of the Bail Support Program and other relevant programs to assist in continuous improvement against measures
3	1.6.1	Reduce custody rates of Aboriginal & Torres Strait Islander people through the improved use of the Front Up program <ul style="list-style-type: none"> <li>• Year 1 – 10 people</li> <li>• Year 2 – 15 people</li> <li>• Year 3 – 20 people</li> </ul>	ACT Policing	ACT Magistrates will only accept persons who have an outstanding First Instance Warrant. Those in breach of bail are not considered to be eligible for Front Up. Discussions to continue with Chief Magistrate
4	1.7.2	Refer all eligible Aboriginal & Torres Strait Islander young people & their families to CYFSP.	CSD (Youth Justice) ATSIEB	ATSIEB actively monitoring and providing advice on the process
5	1.7.3	Ensure all eligible Aboriginal & Torres Strait Islander people under youth justice orders have a case plan that includes cultural care planning	CSD (Youth Justice) ATSIEB	The issue with this measure is the compliance and quality assurance of care plans. ATSIEB and CSD will continue to work together for continuous improvement in this space The recent release of the 'Our Booris, Our Way' report speaks to this matter and in particular the quality of the cultural care plans and recommends improved quality should be monitored

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## QUESTION TIME BRIEF

6	1.7.5	Progress development of culturally appropriate services and programs for Aboriginal & Torres Strait Islander youth involved in or 'at risk' of involvement with the youth system "via the Aboriginal & Torres Strait Islander Programs & Services Coordination Committee"	CSD, in collaboration with ATSIEB	ATSIEB is not aware of the Aboriginal & Torres Strait Islander Programs & Services Coordination Committee
7	1.10.1	Reduce to number of Aboriginal & Torres Strait Islander people arrested using police discretion	ACT Policing ATSIEB	ATSIEB looks forward to developing a relationship with the new CPO (when appointed) and will continue to support the community relationship work being undertaken by ACT Policing
8	1.10.2	Increase the use of cautions for Aboriginal & Torres Strait Islander people using police discretion	ACT Policing ATSIEB	ACT Policing remains committed to the reduction of Aboriginal & Torres Strait Islander people in the criminal justice system, whenever practicable. ACT Policing must consider factors such as seriousness of the offence, full & frank admissions, accepting responsibility circumstances of the offence, public interest & victim impact.
9	1.10.3	Ensure the use of alternative options to custody for intoxicated Aboriginal & Torres Strait Islander people, using police discretion	ATSIEB	ATSIEB understands that a significant barrier in this measure is the availability of places to divert people to. This is a matter for the ACT Government and JACS to consider and should be an important part of any future Aboriginal & Torres Strait Islander Justice Partnership under the renewed ACT Aboriginal & Torres Strait Islander Agreement
10	1.11.1	Develop & implement a sustainable model for the delivery of coordinated support services for Aboriginal & Torres Strait Islander people in the criminal justice system	JACS ATSIEB	Many of the support services delivered to people in custody are directly impacted by the time participants are able to attend. While many are connected to programs, staff availability to take them to programs and the operational requirements at the AMC are impacting on the quality and effectiveness of the suite of

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**QUESTION TIME BRIEF**

				<p>programs. This coordination issue needs to be addressed.</p> <p>ATSIEB is unable to comment as to whether the coordination of these programs and services has improved since the last reporting period</p>
11	2.2	<p>Ensure funding outputs of Service Funding Agreements for the delivery of justice-relates services to Aboriginal &amp; Torres Strait Islander adults and young people are strategically aligned to provide maximum benefit</p> <ul style="list-style-type: none"> <li>• Health Assessments for Aboriginal &amp; Torres Strait Islander detainees accessing Winnunga services in AMC</li> <li>• GP Mental Health Care Plans and 24focused psychological strategies for detainees, where required.</li> <li>• Coordinate and care planning for chronic conditions for detainees, where required</li> <li>• Standard GP consultations for detainees accessing Winnunga</li> <li>• Holistic, multidisciplinary and culturally appropriate care through conferencing</li> <li>• Conduct regular Governance Reference Group meetings with ACT Health and ACT Corrective Services</li> </ul>	<p>JACS          CSD (Youth Justice)          ACT Health</p>	<p>ATSIEB do not believe this has been demonstrated especially in relation to Health matters</p>
12	2.4.1	<p>Develop culturally appropriate alcohol and</p>	<p>Mental Health</p>	<p>ATSIEB most recently, through the hearings process, are not satisfied</p>

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## QUESTION TIME BRIEF

		other drugs rehabilitation programs and services	Justice Health AOD Services, in collaboration with ATSIEB	that this measure has been actioned at all
13	3.1	Implement an integrated case management system that is capable of capturing and reporting on Aboriginal & Torres Strait Islander data related to matters before the Courts	JACS ACT Law Courts & Tribunals	The annual reporting of relevant criminal statistics will not be able to be implemented until after ICMS Stage 3 is implemented and a full year of data is collected

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Ext: 52672

TRIM Ref: 2018/000083-042

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: OFFICIAL VISITOR REVIEW****Talking points:**

- The Official Visitor scheme has been in place for five years (since 1 September 2013).
- A number of reforms have changed the way Official Visitors (OVs) do their work, including:
  - the rollout of the National Disability Insurance Scheme;
  - increased procedural safeguards in the *Mental Health Act 2015*;
  - the development of an ACT Inspectorate for Custodial Services and;
  - the expected ratification of the Optional Protocol for the Convention Against Torture of the Australian Government.
- In March 2017, I asked the Justice and Community Safety Directorate (JACS) to undertake a formal review (the review) of the scheme. The terms of reference of the review were drafted in consultation with the Public Trustee and Guardian (PTG), relevant directorates, members of the Official Visitor Board (the Board) and the OVs.
- The purpose of the review was to determine whether the Official Visitor scheme was achieving its purpose of providing independent oversight of visitable places, increasing transparency in visitable places and reporting to Government about conditions and concerns in visitable places.
- The Review commenced in May 2017. The final report was completed in November 2017. The Government has since sought the views of OVs on the final report, and is continuing to consider the Review's recommendations.
- The review found that OVs are valued and trusted, particularly around the way they assist eligible people to resolve day to day issues.
- However, the consultation identified that there is no clarity or shared understanding about the role of the OVs even amongst the OVs themselves.

Cleared as complete and accurate: 12/10/2018  
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- OV's are seen as having little influence in identifying and contributing to improvements in systemic issues. Their role in the ACT's rights protection statutory oversight framework is not clear.
- It was also evident that OV's require more support in the form of induction, training and professional development (including debriefing), and guidelines about performing their role. The review identified some clear areas for improvement to the scheme with recommendations relating to governance, the OV's mandate, recruitment, workloads, and accountability measures
- Key amongst these recommendations was a proposal to relocate the administrative centre of OV's from the PTG to the ACT Human Rights Commission (HRC), and appoint a full time OV Coordinator to address governance, administrative, communication and capacity development needs.

#### Next steps

- Before the end of the year, JACS will coordinate a cross government working group to consider the recommendations and implementation issues, to inform Government's consideration of its response to the review.

#### Key Information

- The Official Visitor Scheme is primarily administered out of the office of the PTG. The PTG chairs the Board which has statutory functions for the training, coordination and support of the official visitors.
- Official Visitors work with varying levels of co-operation, assistance and support from those areas of Government or community service entities that administer the visitable places where official visitors have rights of access and investigation.

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- There are OV's for the:
  - *Children and Young People Act 2008* (two OV's, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Corrections Management Act 2007* (three OV's, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Disability Services Act 1991* (two OV's);
  - *Housing Assistance Act 2007* (one OV); and
  - *Mental Health Act 2015* (four OV's).
- The OV's for one operational Act are empowered to assist the responsible OV's for other Acts if asked (under section 18 of the *Official Visitors Act 2012*).
- The review's methodology included:
  - Directly contacting 46 people and organisations including, advisory bodies, relevant Government directorates and the HRC;
  - Sending 182 letters to registered service providers in the areas of disability, children and young people and homelessness;
  - Directly emailing detainees at the Alexander Maconochie Centre; and
  - Holding forums and a range of meetings with organisations and individuals.

### **Background Information**

- An ACT OV tasked with monitoring children in custody resigned in February 2017 on the basis that his complaints were 'not being taken seriously'. The OV, Mr Bill Bashford, questioned the independence of OV's who must report to the Community Services Directorate (CSD). The OV resigned over a complaint he submitted to Child and Youth Protection Service (CYPS) about a child in foster care **Sch 2 s 2.2 (a)(ii)**. CYPS responded to the Visitor by informing him the complaint had been handled in accordance with their internal procedures. CYPS would not share any further information with the Official Visitor.
- CSD did not provide the OV with further information because foster care was beyond the remit of the OV's responsibility. CYPS were therefore legally restricted from sharing information with the OV.
- Due to competing priorities, the implementation of the Government's response to the OV review has not been progressed, however JACS is keen to commence this work before the end of the year, with a view to finalising work on the review by mid 2019.

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Lead Directorate: Justice and Community Safety

TRIM Ref: 2018/000083-044

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RETIREMENT VILLAGES****Talking points:**

- The *Retirement Villages Legislation Amendment Bill 2018* (the Bill) is scheduled for introduction in the October 2018 sittings.
- The Bill implements a second tranche of recommendations which came out of the 2015-16 review of the *Retirement Villages Act 2012*.
- The Bill makes a range of amendments which will:
  - remove administrative duplication and streamline budget processes for unit titled retirement villages under the Retirement Villages Act and the *Unit Titles (Management) Act 2011*
  - restore a default voting procedure of ‘one vote per unit’. Individual villages will be able to restore a ‘one vote per person’ voting procedure by passing a special resolution.
  - provide access to an enforceable conciliation process to manage complaints about service provision under the Retirement Villages Act through the Human Rights Commission.
  - clarify the definition of the terms ‘capital item’ and ‘capital replacement’.
  - allow sellers of units in unit-titled retirement villages by allowing certain due-diligence documents to be provided at a later stage of the sales process. Failure to provide these documents within the required timeframes is a strict liability offence carrying a maximum penalty of ten penalty units.
- The Bill has been developed with the assistance of the Review Advisory Group – a Group of key stakeholders which represents residents and operators of retirement villages, advocacy groups and other relevant bodies. It includes members of the ACT Retirement Villages Residents Association, the ACT Property Council Retirement Living Committee, the Human Rights Commission, Access Canberra, the Council on the Ageing ACT, representatives of unit-titled retirement villages and the ACT Law Society.

Cleared as complete and accurate: 00/10/2018  
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- The Government has conducted targeted stakeholder consultation on the Bill.
- Officers of the Justice and Community Safety Directorate (JACS) met with residents of IRT Kangara Waters, Goodwin Monash and Bellerive Retirement Village to discuss the contents of the Bill. Approximately 100 people participated in these consultation meetings.
- Nine written submissions were received about the contents of the Bill. Feedback from this consultation informed the development of the legislation.
- Definitions of capital maintenance and capital replacement were a major area of concern in the RVA Review and the targeted consultation with retirement villages. Commencement of the Bill has been delayed to allow time for guidelines addressing the distinction between capital maintenance and capital replacement to be finalised.

### Greiner Review

- I am aware of the *Greiner Review Report* on retirement villages, which was commissioned by the NSW Government.
- The *Greiner Review Report* was publicly released along with a Government response in June 2018. The report makes 17 recommendations to improve the NSW legislative framework and operational practices of the industry and regulator. The NSW Government has announced it will accept most of the recommendations, with the rest being accepted in principle.
- The ACT Government will give further consideration to the recommendations of the *Greiner Review Report*.

### **Key Information**

- The Review Advisory Group reconvened in 2017 to consider the second stage of recommendations. A sub-group was also convened to consider issues relating to unit-titled retirement villages.
- JACS is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.

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**Background Information**

- The 2016 review of the Retirement Villages Act included first and second stage recommendations. The review was conducted with the assistance of the Review Advisory Group.
- The first stage reforms commenced on 16 December 2016.
- The Legislative and Governance Forum on Consumer Affairs (CAF) recently conducted an investigation into best practice regulation of retirement villages in Australia, led by Consumer Affairs Australia and New Zealand (CAANZ).
- The CAANZ progress report, finalised and circulated in May 2018, recommended that the investigation be concluded. This report is **not** publicly available.
- The progress report uncovers common issues identified across jurisdictions, including difficulties in understanding contracts and payment, power imbalances between operators and residents, and unfair or misleading conduct by village operators.
- The CAANZ investigation has determined that States and Territories are best placed to develop best practice regulation.

Cleared as complete and accurate: 00/10/2018  
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**Portfolio/s:** Minister for Justice, Consumer Affairs and Road Safety**ISSUE:** **Status of report into PACYP undertaken by Spring Green Consulting (p 35 of Annual Report)****Talking points:**

- I am aware that there have been delays in the preparation and delivery of this report due to ongoing discussions.
- I have requested that JACS prepare a detailed briefing for me on the report, and on any recommendations for future consideration.
- I have not discussed these matters with the PACYP.
- I remain committed to creating an integrated system of responses, support and services that both seek to prevent family violence and to address the needs of the victims of family violence.
- Oversight mechanisms are a vital component of the response to family violence in the ACT.
- The work of the Public Advocate and Children and Young People Commissioner and Community Services Directorate are vital components of this system.
- As foreshadowed in the annual report, JACS has distributed the final report to the Public Advocate and Children and Young People Commissioner and Community Services Directorate.
- I am advised that JACS is preparing detailed briefing for me on the report.
- The timing of this briefing has been impacted by related work underway to implement recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse to facilitate the implementation of Child Safe Standards in institutions.

**Background**

- Recommendation 15 of the Glanfield Inquiry Report was that *'a review should be undertaken to determine whether the oversight resources of the Public Advocate and Children and Young People Commissioner and the resources to respond in the*

Cleared as complete and accurate: 09/11/2018  
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*Community Services Directorate are sufficient to ensure oversight mechanisms are working effectively'.*

- Subsequent to the Government Response to the Glanfield Inquiry Report, in which Recommendation 15 was accepted, \$25,000 was allocated to the conduct of this review. A procurement process was conducted by JACS, and Spring Green Consulting was the successful tenderer for this work.
- The final report from Spring Green Consulting was received by JACS on 7 May 2018.
- The Annual Report on page 35 indicates that, at the end of the financial year, the report was being prepared for distribution.
- The Public Advocate and Children and Young People Commissioner (PACYPC) and the relevant Senior Director within the Community Services Directorate (CSD) provided fact checking and input on a draft of the report during it's development.
- The PACYPC also provided further input to JACS when provided with a copy of the final report.
- JACS has subsequently been discussing this feedback with PACPYC and the Reviewer and is preparing to brief you in detail.

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**MINISTER FOR JUSTICE, CONSUMER AFFAIRS AND ROAD SAFETY**  
**QUESTION TIME BRIEFS**  
**27-29 November 2018**

<b><i>Question Time Briefs</i></b>	
1.	Summary of Budget Initiatives
2.	Reducing Recidivism
3.	Vulnerable Road User Reforms (incl. lane filtering and minimum passing laws) *
4.	Graduated Licencing Scheme *
5.	Repeal of Civil Unions Act
6.	Drug Driving *
7.	Victims Charter of Rights
8.	Vilification and Discrimination
9.	Restorative Justice
10.	Justice Reinvestment
11.	Aboriginal and Justice Partnership
12.	Official Visitor Review
13.	Retirement Villages
14.	Discrimination Act
15.	Helmets *

\*In accordance with section 35 of the Territory Records Act 2002, this brief has been transferred to Transport Canberra and City Services (TCCS) as the current record owner. Refer to the TCCS website ([www.cityservices.act.gov.au](http://www.cityservices.act.gov.au)) for further information on the release of this brief under Open Access.

\*2018\*000083-031

**Portfolio:** Justice, Consumer Affairs & Road Safety

**ISSUE:** 2018-19 Budget Summary – Minister for Justice, Consumer Affairs and Road Safety

**Talking points:**

Human Rights Commission

- **\$557,000** over two years will be invested to upgrade the Human Rights Commission digital capabilities and implement a single case management system.

Reducing recidivism by 25 per cent by 2025

- **\$1 million** in 2018-19 to reduce recidivism by supporting initiatives which prevent crime and address offending behaviour, including:
  - **\$84,000** Aboriginal Victim Liaison Officer for the Victims of Crime Office
  - **\$285,000** to expand the High Density Housing Community and Safety Program
  - **\$152,000** to establish Warrumbul Court in the Children’s Court to provide a culturally appropriate sentencing process for Aboriginal and Torres Strait Islander youth in the justice system
  - **\$434,000** for the continued development of, and operationalising initiatives within the justice reinvestment program

The Government will also protect and support the victims of crime through the justice system by investing:

- **\$14.2 million** over four years for supporting survivors of child sexual abuse by joining the National Redress Scheme to deliver a redress payment, counselling and psychological care, and a direct personal response. ACT Health will contribute \$0.184 million from the Health Central Provision to the administration of the scheme.

**Background Information**

- The ACT’s budget announcements will include initiatives relating to:
  - Better Government – Human Rights Commission digital capability;

Cleared as complete and accurate: 23/11/2018  
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## QUESTION TIME BRIEF

- More support for families and inclusion – Reducing recidivism;
- More support for families and inclusion – Implementing the Commonwealth Redress; and
- Scheme for Institutional Child and Sexual Abuse.

Cleared as complete and accurate: 23/11/2018  
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**ISSUE:        REDUCING RECIDIVISM****Talking points:**

- The Government has set a goal to reduce recidivism by 25 per cent by 2025.
- Reducing recidivism in the ACT is a shared responsibility across the justice and human service system. The government will work closely with government stakeholders, the community sector, academia and those with lived experience to develop the Recidivism Plan.
- Developing a Recidivism Plan to achieve this ambitious target will require a package of work to effectively change the life trajectories of some of Canberra's most vulnerable citizens who have complex needs.
- A key contribution to the Recidivism Plan, is the four year commitment to develop a Justice Reinvestment Strategy (2014-18).
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.

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- In the 2018-19 budget the government provided \$0.955m of support for families to reduce their contact with the justice system.
- As part of this work, the Government is expanding the High Density Housing Community and Safety Program, which facilitates programs that reduce crime and antisocial behaviour through community building at public housing sites in the ACT.
- We have also provided funding for a dedicated Liaison Officer through Victim Support ACT to better support Aboriginal and Torres Strait Islander victims of crime, and establish Warrumbul Court in the Children's Court to provide a culturally appropriate sentencing process to help address the overrepresentation of young Aboriginal and Torres Strait Islander people in the justice system.
- These initiatives feed into the government's broader commitment to develop a recidivism plan.
- Important to success in reducing recidivism in the ACT will be addressing the onset of offending and the cycles of offending.

**Key Information**

- The Government traditionally measures recidivism using the Report on Government Services. ROGS measures one part of the justice system, whether a person has received a conviction in a court and whether they have received a second conviction within a two year period.
- The measure does not include other considerations such as police discretion when dealing with offenders, using diversion options (such as restorative justice) or court responses that may prove an offence but not record a conviction.
- It also doesn't measure if there is a change in the frequency or severity of offending.
- The 2017 Prisoners in Australia publication by the ABS found that 75 per cent of ACT prisoners have previously been imprisoned under sentence, the largest proportion of any State or Territory (the national average was 57 per cent).
- The ACT consistently has the lowest imprisonment rate in Australia per head of population. In 2017 the adult imprisonment rate was 141 prisoners per 100,000 a decrease from 144 prisoners per 100,000 (2016) adult population compared to the national imprisonment rate of 215.9 prisoners per 100,000 population.
- This means that to change our recidivism level is not a simple step or one set of initiatives, it will be about holistic change across the system and with offenders and their families to change inter-generational offending patterns.

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- The Reducing Recidivism Advisory Group met and discussed:
  - how to define and measure recidivism in the ACT
  - our ACT data and how it will shape where we direct our efforts
  - review and confirm that the strategic framework, Building Communities Not Prisons, is an appropriate articulation of the work we will do in the Plan
  - initiatives that will change the trajectory of our most vulnerable Canberrans (and their families)

**Background Information**

- The Parliamentary Agreement for the Ninth Legislative Assembly commits to reducing recidivism by 25 per cent by 2025.
- The 2018-19 budget process provided \$0.434 for the continued development of, and operationalising of initiatives within the Justice Reinvestment Program which underpins the reducing recidivism approach. Funding will be provided to support the:
  - senior officer to progress the Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The 2018-19 Budget also provided \$0.285m to continue the Ainslie Avenue based High Density Housing Program and expanding it to Illawarra Court.
- \$0.150m for an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$0.152m for a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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TRIM Ref: 2018/000083-029

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: REPEAL OF CIVIL UNIONS ACT****Talking points:**

- Since the Commonwealth Government amended the *Marriage Act 1961* (Cwth) (Commonwealth Marriage Act) to allow couples to marry regardless of their sex or gender, no one has been eligible to enter or solemnise a Civil Union under ACT law.
- The Government has considered whether it is desirable to repeal the *Civil Unions Act 2012* to prevent misapprehension that Civil Unions can still be validly entered or solemnised in the ACT.
- Because repealing the Civil Unions Act could temporarily affect the recognition of civil unions in other states and territories, and under Commonwealth laws, we have decided not to repeal the Act at this time.
- The Government continues to recognise all Civil Unions that were entered into in the ACT before marriage equality (9 December 2017).
- The Justice and Community Safety Directorate (JACS), Access Canberra and the Office for LGBTIQ Affairs will be working together to ensure that all couples and celebrants are aware of this.
- The Government will look for future opportunities to update gendered references to marriage across the ACT's statute book. Such changes would enhance the equal recognition of same-sex marriages in ACT legislation.

**Key Information**

- Civil unions offer a legally recognised relationship for same-sex couples that is to be treated identically to a marriage for the purposes of territory laws.
- As of 20 August 2018, 53 civil unions were registered in the ACT.
- During Estimates hearings on 26 June 2018, you indicated the ACT Government Solicitor (ACTGS) had advised that maintaining the *Civil Unions Act 2012* presents a risk that it could be deemed not consistent with the Commonwealth Marriage Act as that Act now covers the field.

Cleared as complete and accurate: 21/11/2018  
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Lead Directorate: Justice and Community Safety



**Background Information**

- The Civil Unions Act was introduced to enable couples who were unable to marry their same-sex partner under the Commonwealth Marriage Act to enter into a legally recognised relationship.
- On 7 December 2017, the Commonwealth Parliament passed the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwth) (Marriage Amendment Act). This Act amended the definition of marriage in the Commonwealth Marriage Act to enable same-sex couples to marry in Australia. It also introduced legal recognition of overseas same-sex marriages, including retrospective recognition of overseas same-sex marriages prior to 8 December 2017.
- Only natural persons who are not eligible to marry under the Commonwealth Marriage Act may enter into a civil union. Since the entry into force of the Marriage Amendment Act on 9 December 2017, persons of the same-sex have been eligible to marry under the Commonwealth Marriage Act. Therefore no one has been eligible to enter into a civil union since these amendments.
- On 25 October 2018, the Chief Minister agreed to withdraw the Civil Unions Repeal Bill 2018 from the Spring 2018 legislation program. The Bill was withdrawn because it became apparent that some jurisdictions may need to pass consequential amendments to their corresponding relationships legislation in order to continue recognising ACT civil unions after the repeal of the Civil Unions Act 2012. This meant that repealing the Act would expose couples in existing ACT Civil unions to an interim period of uncertainty between the repeal taking effect and other jurisdictions updating their corresponding regulations. In lieu of repealing the Act, you are being briefed separately on communications materials to inform the public that no new civil union could be entered into or solemnised since the commencement of marriage equality on 9 December 2017.

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Lead Directorate: Justice and Community  
Safety

TRIM Ref: 2018/000083-037

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: CHARTER OF RIGHTS FOR VICTIMS OF CRIME****Talking points:**

- The Government is committed to introducing a Charter of Rights for Victims of Crime. Victims are central to the ACT justice system and must be included and treated with respect to avoid further trauma being caused and encourage crime to be reported.
- The Charter will outline the rights of victims of crime, the obligations justice agencies have when dealing with victims, and establish a complaints resolution process where the Charter is breached.
- The Government is working closely with stakeholders including the Victims Advisory Board, the Victims of Crime Commissioner, individual victims of crime and justice agencies to identify the best approach for implementing a Charter of Rights for Victims of Crime in the ACT.
- It is important for Government to listen to what victims have to say about our criminal justice system, and I thank all community members, particularly those who have experienced crime, who gave their views on how the Charter can best meet their needs and interests during the public consultation period in July and August this year.
- A proposed model of the Charter is now being developed in close consultation with justice stakeholders.

**Key Information**

- Advice from the Directorate will shortly be provided regarding a summary of consultation feedback and a proposed model for the Charter. Feedback on the proposed model will be sought from the Victims Advisory Board at the next meeting to be held 28 November 2018.
- The Charter is likely to be implemented in the second half of 2019, and will include a package of reforms including legislation change and practical strategies to give victims rights and a complaints process where these are breached.
- Implementation of the Charter will be considered in the context of 2019-2020 budget.

Cleared as complete and accurate: 09/11/2018  
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Safety

- The development of the Charter, Government implementation of the *Royal Commission into Institutional Responses to Child Sexual Abuse* recommendations, and the Disability Justice Strategy share significant interest in improving access to justice in the ACT, particularly for those most vulnerable members of our community. The Government is considering these reforms in a cohesive way.
- The Charter is expected to replace the governing principles for the treatment of victims of crime in the *Victims of Crime Act 1994* (s4). Common feedback heard from victims of crime during consultations include wanting information and support in a timely manner so they can choose how to interact with the justice system, and opportunities to participate in processes and be consulted about key decisions. Having a voice in the justice system is particularly important for diverse and marginalised community members.
- The Charter is building on the commitment of justice agencies to victims of crime, and existing and emerging good practice across justice agencies, ACT Government and the community sector.
- All other states and territories in Australia have introduced victim rights as principles or guidelines. The Government seeks to build on the ACT's Human Rights framework by providing community members with actionable rights linked to an accountability mechanism.

### **Background Information**

- The Parliamentary Agreement to the 9<sup>th</sup> Legislative Assembly commits to the introduction of an ACT Rights of Victims Charter.
- Providing opportunities for victims of crime to be informed and have a voice in the justice process leads to improved outcomes for the community and justice system more broadly, including increased confidence in reporting crimes, better evidence provision, reduced re-traumatisation, and a more efficient and transparent justice process.
- The ACT has a strong history of supporting victims and upholding human rights. The ACT led Australian jurisdictions with the introduction of legislated governing principles for the treatment of victims of crime in the administration of justice (1994); the establishment of the *Human Rights Act 2004*; the introduction of the statutory Victim of Crime Commissioner role (2010) and its integration into the Human Rights Commission (2016).
- Best practice in victim participation, services and rights is developing across Australian jurisdictions and community expectations that victims are central to justice processes is growing. Victim rights will be upheld in a balanced way with the rights of defendants.

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TRIM Ref: 2018/000083-038

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: VILIFICATION AND DISCRIMINATION****Talking points:**

- The ACT condemns vilification and discrimination.

Discrimination

- The *Discrimination Act 1991* makes it unlawful for someone to discriminate against another person in a range of areas of public life including education, employment and in receiving goods and services.
- Discrimination is prohibited on 24 grounds – including gender and sexual orientation. Sexual orientation includes a person being gay, lesbian, bisexual, or heterosexual.
- In August 2016, the grounds of unlawful discrimination were expanded to protect against discrimination on the basis of attributes such as employment status, immigration status and being a victim of domestic and family violence.
- All jurisdictions' anti-discrimination laws contain general exceptions for religious schools though these do vary in scope and application.
- Section 33 of the *Discrimination Act 1991* has an exception to otherwise unlawful discrimination for religious schools which provides that it is not unlawful for a religious school to discriminate in relation to the employment of, or provision of education to, a person if this occurs in good faith to avoid injury to "the religious susceptibilities of adherents of that religion or creed."
- The ACT is not aware of any instances in which this exemption has been invoked to exclude a student from school on the basis of their sexual orientation or gender identity.
- The Government would be concerned if there have been instances of such behaviour.

Cleared as complete and accurate:	16/11/2018	
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Lead Directorate:	Justice and Community Safety	

- This is particularly the case, given that the Human Rights Act requires that all Territory laws be interpreted insofar as possible in a manner consistent with rights under that Act.
- On 13 October 2018, Prime Minister Scott Morrison said amendments to the Commonwealth *Sex Discrimination Act* would be introduced into the Parliament to protect students from being expelled because of their sexuality.
- On 1 November 2018, the Government introduced the *Discrimination Amendment Bill 2018* to strengthen protections against discrimination for both students and staff in educational institutions conducted for religious purposes.
- The *Discrimination Amendment Bill 2018* will provide a limited exception for educational institutions conducted for religious purposes to discriminate against staff, and students on admission, but only on the grounds of religious conviction, and not other protected attributes such as sexuality.

### Vilification

- It is also against the law to vilify a person or group of people on the grounds of race, sexuality, gender identity and HIV/AIDS status. Racial vilification was expanded in 2016 to apply to vilification on the grounds of religious conviction and disability.
- Vilification means to publicly incite hatred towards a person or group of people which is likely to offend, insult, humiliate or intimidate that person or group of people. In 2016, the definition of vilification was expanded to include conduct that ‘incites revulsion’.
- If anyone is subject to vilification or discrimination in the ACT, I encourage them to contact the ACT Human Rights Commission (HRC) to talk through the complaints process.

Cleared as complete and accurate:	16/11/2018	
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Lead Directorate:	Justice and Community Safety	

**Key Information**

The Commonwealth Expert Panel to examine whether Australian law adequately protects the human right to freedom of religion delivered its report on 18 May 2018.

The ACT has introduced a bill amending the *Discrimination Act 1991* to better protect people of the LGBTIQ community. Debate on the bill will take place in the last sitting period of 2018.

Changes to the *Discrimination Act 1991* in August 2016 followed recommendations of the ACT Law Reform Advisory Council (LRAC). The Justice and Community Safety Directorate (JACS) is due to begin work on the second phase of reforms to the Discrimination Act in November 2018.

The ACT HRC is an independent agency that promotes the human rights and welfare of people in the ACT community and provides an independent, fair and accessible process for resolving individual complaints about discrimination and vilification.

The HRC does not presently accept complaints against members of ACT Policing about discrimination in the course of their role. As ACT Policing services are contracted from the Australian Federal Police, this would potentially contravene the *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) by purporting to bind a Crown entity.

During Estimates hearings on 26 June 2018, the Discrimination Commissioner, Ms Karen Toohey, suggested there may be scope for the ACT Legislative Assembly to legislate to allow the HRC to accept complaints against ACT Policing. JACS is presently considering this matter.

Serious vilification is an offence under the *Criminal Code 2002*. The maximum penalty is \$7,500 (50 penalty units).

**Background Information**

On 22 November 2017, former Prime Minister, Hon Malcolm Turnbull, established an Expert Panel to examine whether Australian law adequately protects the human right to freedom religion. On 18 May 2018, the Panel delivered its report to the Prime Minister.

On 9 October 2018, Fairfax Media reported that the yet-to-be published Report made recommendations regarding the ability of religious schools to discriminate against students and teachers on a range of grounds including sexuality.

However, when the recommendations were released in full it became clear that the Panel was in fact referring to existing exception provisions in the Commonwealth Sex Discrimination Act. Similar exceptions exist for religious schools in most States and Territories.

The Panel report actually recommends narrowing these exceptions so that they do not allow discrimination in relation to grounds such as pregnancy or intersex status. Nevertheless, they recommend that the exception allowing schools to discriminate on grounds of sexuality and gender identity be retained, but subject to a limitation that a school have a public policy outlining its position in relation to the matter and explaining how the policy will be enforced.

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## QUESTION TIME BRIEF

A separate Question Time Brief has been prepared by CMTEDD which provides more detail on the provisions and effect of the Discrimination Amendment Bill 2018. We understand you have been provided this brief separately.

Cleared as complete and accurate:	16/11/2018	
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TRIM Ref: 2018/000083-039

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RESTORATIVE JUSTICE****Talking points:**

- Ensuring that victims of crime have the opportunity to access restorative justice if and when they need it is a Government priority.
- Recent changes made by the *Crimes (Restorative Justice) Amendment Act 2018* removed legislative barriers to referring entities making referrals to the Restorative Justice Scheme. It also made amendments to strengthen the Restorative Justice Unit's ability to manage family violence and sexual offences following the commencement of Phase 3.
- Phase 3 of the Restorative Justice Scheme commenced on 1 November 2018. This means that victims of family violence and/or sexual offences can access restorative justice and that victims will no longer be excluded from accessing restorative justice based on the particular offence they have experienced.
- Referrals are already being received and at this early stage there is an emphasis on referrals with adult children offending against their parents.
- The Restorative Justice Unit (RJU) has finalised guidelines and is refining operational manuals for the management of referrals for family violence and sexual offences in collaboration with interstate experts and our local counselling agencies. It is acknowledged that these highly sensitive matters will require additional supports and expertise for those participating in the process.
- A model of Restorative Justice (RJ) that promotes a strong commitment to responsibility and accountability, educational and or therapeutic support for participants throughout the process and stringent risk management and safety planning is being adopted in the ACT.

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- A significant reform included in the recent amendments to the restorative justice legislation allows victims to be directly referred at the post-sentence stage to RJ by the Victim of Crime Commissioner, victim advocates and supporters or victims themselves, without the offender's initial awareness or agreement. This is so that the victim can explore the potential benefits and risks of RJ without fear of coercion or influence by the offender. This will be especially important in phase three when family violence and sexual offences are referred to RJ.
- The changed threshold of responsibility for less serious offences for young people to 'doesn't deny' commission of the offence at the eligibility stage, acknowledges that many young people may be afraid to talk or are advised not to talk and/or make admissions upon apprehension in accordance with their legal rights.
- Changing the threshold for these offenders from 'accepts responsibility for the offence' to 'doesn't deny responsibility for the offence' supports the referral of vulnerable young people, in particular those from the Aboriginal and Torres Strait Islander community who have historically difficult relationships with police and the courts.
- Accepting responsibility is still a key factor in an offender's readiness for conference however and this is thoroughly assessed by RJU staff in the 'suitability' process. Young people who continue to deny responsibility for the commission of offences would have their matter returned to the referring entity as not suitable to proceed.

**Key Information**

- Phase 3 commencement completes the rollout of the ACT's Restorative Justice Scheme as it was originally envisioned by the Restorative Justice Sub-Committee of the ACT Sentencing Review Committee in 2003.
- The RJU is in consultation with local support agencies such as Relationships Australia, Menslink, Everyman Australia, the Domestic Violence Crisis Service, CatholicCare and Victim Support ACT to develop service provision agreements to support the successful rollout of more complex conferencing in Phase 3. The role of these service providers is to help prepare victims and offenders to participate in RJ conferences in ways that are safe and satisfying for all participants.

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- Any person who has been impacted by an offence can seek a referral to restorative justice.

### **Background Information**

#### ***Statistical information***

- The RJ scheme involved only referrals for young people and less serious offences between 2005 and 2016. In February, 2016 the scheme began accepting referrals for adult offenders and for serious offences for adults and young people. On Nov 1 2018 phase 3 was declared by the Minister for Justice and Consumer Affairs and Road Safety.
- As at 30 June 2018, a total of 2,255 referrals had been received by the RJU since the scheme began. This includes a total of 2,482 young people and a total of 316 adults.
- A total of 1,492 conferences had taken place.
- The overall compliance of young people with RJ agreements is 90 per cent since the scheme began.
- The overall compliance rate of adults with RJ agreements is 83 per cent.

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TRIM Ref: 2018/000083-040

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: JUSTICE REINVESTMENT****Talking points:**

- The ACT government made a four year commitment to develop a Justice Reinvestment Strategy in the 2014-15 Budget.
- Justice Reinvestment (JR) is about developing a smarter, more cost-effective approach to improving criminal justice outcomes by reducing crime and diverting offenders, and those at risk of becoming offenders, from the criminal justice system.
- The approach created in the JR Strategy will underpin the development of a Reducing Recidivism Plan in order to meet the Government's commitment to reduce recidivism by 25 per cent by 2025.
- The ACT's approach to Justice Reinvestment is multi-faceted. Rather than undertaking a single intervention to achieve cost savings, a cumulative approach has been developed.
- There are two main streams of work that form the JR Strategy:
  - building an evidence base to support decisions about reducing recidivism and diverting offenders, and those at risk of becoming offenders, from the justice system.
  - establishing and evaluating justice programs and trials– trials currently focus on addressing the overrepresentation of Aboriginal and Torres Strait Islander people in the justice system.
- The JR Strategy has developed a three by three approach to JR in the ACT. The three steps are:
  - Get the right people together at the right times with the information needed to make the best decisions for their community.
  - Get local data to help identify local problems and local solutions.
  - Use co-design principles to identify key programs and trials that prevent or delay people's contact with the justice system.

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The three pathways are:

- Place based – providing crime reduction and community strengthening programs and supports in the same location as the people who need them.
  - Point in the system – providing interventions at crucial points in the justice system, for example arrest, bail and remand, where a change to that part could reduce peoples future contact with the justice system.
  - Cohort – focusing efforts on particular groups who are in constant contact with the justice system and targeting services and support to this group.
- The JR Strategy involves six key projects: Justice System Cost Model; Justice and Human services system data snapshots; Justice services and programs map; Evaluation Framework; Yarrabi Bamirr (family-centric service support model with Aboriginal and Torres Strait Islander families) and Ngurrambai (bail support program for Aboriginal and Torres Strait Islander people).
  - The JR Strategy reinforces a number of strategic cross Government initiatives including the Aboriginal and Torres Strait Islander Agreement and Justice Partnership, the Human Services Blueprint and the Blueprint for Youth Justice.

### **Key Information**

- The JR Strategy was presented to the Human Services and Social Inclusion subcommittee of Cabinet on 28 September 2018.
- The first meeting of the Reducing Recidivism Advisory Group was held on 17 October 2018. The Group met to begin development of the Reducing Recidivism Plan which will set the strategic direction for achieving the Government’s commitment to reduce recidivism by 25 per cent by 2025.
- A JR and Reducing Recidivism Forum hosted by Minister Rattenbury is scheduled to be held on 5 and 6 December 2018.
- The Building Communities Not Prisons - Justice Reinvestment and Reducing Recidivism Forum will unite national and international participants in driving the conversation about reducing recidivism and justice reinvestment in Australia. Professor Tom Calma AO, Chancellor of the University of Canberra, and leading American Criminologist, Alex Piquero, are key contributors to this Forum.

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- The JR Strategy involves six key projects:
  - Yarrabi Bamirr (Ngunnawal words for ‘Walk Tall’): A family-centric service support model that works with Aboriginal and Torres Strait Islander families to improve life outcomes and reduce or prevent contact with the justice system. In addition to the program delivered by Winnunga, the Aboriginal Legal Service (NSW/ACT) and Mulleun Mura (The Womens Legal Centre, ACT) were engaged to deliver Yarrabi Bamirr to at least 10 more families referred at the point of release from prison.
  - Utilising the expertise of these three Aboriginal-led agencies means that at least twenty local Aboriginal and/or Torres Strait islander families will now have access to the Yarrabi Bamirr model of support. Currently the three agencies are supporting 20 families (50 adults and 53 children). The preliminary research from the evaluation conducted by the Australian National University indicates Yarrabi Bamirr has provided strong benefits to families including keeping families together, preventing homelessness and keeping people out of prison.
  - Ngurrumbai (Ngunnawal words for ‘perceive, I see, I listen, I understand’): A bail support trial which works with Aboriginal and Torres Strait Islander people on bail to ensure compliance with bail orders. Launched in December 2017, the Bail Support program as at June 2018 has 28 clients registered with the program. Key issues for clients were accommodation, access to drug rehabilitation, transport to interstate legal obligations, and access to residential mental health services.
  - Justice System Cost Model: A model which costs the individual components of the current adult and juvenile ACT Justice System from the point of apprehension to post-sentence, in order to establish a baseline cost of the ACT’s Justice System.
  - Justice services and programs map: A project which aimed to create an evidence base of government and community sector programs that provide services and support to people who have contact, or are at risk of having contact, with the ACT criminal justice system including victims of crime and perpetrators of crime. A decision was made in May 2018 by Minister Rattenbury to no longer invest in the development of the Programs Map.
  - Justice and Human services system data snapshots provide local data to inform local solutions that change people’s contact with the justice system.
  - An evaluation framework consisting of program evaluations containing justice reinvestment measures.

### **Background Information**

- The 2014-15 Budget provided \$689, 000 over four years, to develop a whole of government justice reinvestment approach in the ACT. This funding was provided within JACS existing resources.

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**QUESTION TIME BRIEF**

- In 2016-17 \$926, 000 was provided for the JR trials. The funds, from the 2016–17 Budget (\$76, 000) and the CAT fund (\$850, 000), were directed towards Aboriginal-run organisations, the Domestic Violence Crisis Service and ACT Policing to deliver Yarrabi Bamirr. A further \$226, 000 was provided in the 2017-18 Budget to support the JR Trials.
- In the 2018-19 Budget \$434, 000 was provided to continue the development of, and operationalising of initiatives within, the justice reinvestment program. Funding will be provided to support the:
  - Senior officer to progress Reducing Recidivism Plan and Justice Reinvestment
  - Yarrabi Bamirr Justice Reinvestment Trial by continuing the essential Aboriginal and Torres Strait Islander identified trial coordinator role
  - Senior legal policy officer to develop a policy and associated legislated reforms for “Clean Street Time”
  - Remaining funding to support yet to be identified initiatives to support the 2019-20 Reducing Recidivism business case.
- The High Density Housing program also received \$285, 000 in the 2018-19 Budget for six months of funding for Ainslie Avenue and 12 months funding to expand the program to Illawarra Court.
- \$150, 000 on an Aboriginal and Torres Strait Islander Victim Liaison Officer (ASO6); and
- \$152, 000 on a Warrumbul Court Coordinator & Cultural Advisor for the Children’s Circle Court and core costs associated with Panel Member training, supervision, reimbursements (for expenses and cultural expertise) and ICT.

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TRIM Ref: 2018/000083-041

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: ABORIGINAL AND JUSTICE PARTNERSHIP****Talking points:**

- The Aboriginal and Torres Strait Islander Justice Partnership is a demonstration of the ACT Government's commitment to improving law and justice services and outcomes for Aboriginal and Torres Strait Islander people in the ACT.
- The Partnership takes a targeted approach to addressing the over-representation of Aboriginal and Torres Strait Islander people in the ACT criminal justice system and includes detailed actions, measures and areas of accountability.
- The three key objectives of the Partnership are to:
  - reduce over-representation by reducing recidivism and increasing access to diversionary programs
  - improve access to justice services
  - improve data collection and reporting.
- Some major targets under the Partnership are to:
  - reduce the daily average Aboriginal and Torres Strait Islander detainee population at the Alexander Maconochie Centre, as a percentage of the total prison population, to 10 per cent
  - reduce the over-representation of Aboriginal and Torres Strait Islander young people in the youth detention system by 20 per cent over the life of the Partnership, from a 2012 baseline figure
  - increase the number of Aboriginal and Torres Strait Islander adults and young people being referred to and accessing diversionary criminal justice system programs, from a 2013 baseline
  - manage and support stakeholders to deliver effective justice related services

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- improve the collection and reporting of Aboriginal and Torres Strait Islander data by criminal justice agencies by:
  - i. implementing data systems that are capable of collecting Aboriginal and Torres Strait Islander data and increasing access to public reports on Aboriginal and Torres Strait Islander data through better use of formal and informal communication channels.
- The Partnership consists of a total of 21 actions areas with 38 key measures that in some instances are jointly addressed by lead agencies bringing the total number of reportable action items to 79. On 3 April 2018, it was agreed by the ACT Aboriginal and Torres Strait Islander Elected Body that 42 reportable action items could be closed as they had either been completed or been considered to be consistently on track over the term of the Partnership. The objective of this decision was to allow reporting agencies to focus on those remaining 37 action items that still required work and attention.

**Whole of Government Aboriginal and Torres Strait Islander Agreement:**

- From 2019 the Partnership will be combined with the ACT Aboriginal and Torres Strait Islander Agreement 2019 -2028 (the Agreement). This will be a cross-directorate Agreement under which each directorate will have a specific plan. It is planned for there to be four specified action plans (coinciding with ACT Aboriginal and Torres Strait Elected Body terms) over the ten year course of the Agreement.
  - Phase One – Action Plan – Jan 2019 to Jun 2020
  - Phase Two – Action Plan – Jul 2020 to Jun 2023
  - Phase Three – Action Plan – Jul 2023 to Jun 2026
  - Phase Four – Action Plan – Jul 2026 to Dec 2028.
- Action Plans, including the Justice Action Plan, are being developed to include specific, measurable, achievable and relevant targets aimed at improving service outcomes for the ACT Aboriginal and Torres Strait Islander community. Their development is being overseen by an Inter-Directorate Committee and the Elected Body.

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## Key Information

- The Justice Partnership concludes at the end of 2018. At that time an analysis of each responding agency's (both government and non-government) performance against the specified actions, measures and areas of accountability will be undertaken and a comprehensive report outlining the many successes and remaining challenges from the Justice Partnership will be made available to the Minister in early 2019.

## Background Information

- The ACT Government developed the first ACT Aboriginal and Torres Strait Islander Justice Agreement 2010-2013 in conjunction with the Elected Body in response to a joint report that the Attorney-General launched in 2008 by the ACT Council of Social Services/Aboriginal Justice Centre entitled *Circles of Support: Towards Indigenous Justice: Prevention, Diversion and Rehabilitation*.
- Governance arrangements under the Partnership include a Strategic Board Sub-Committee, an Advisory Group and an Aboriginal and Torres Strait Islander Caucus to oversee and drive progress.
- The Advisory Group is made up of representatives from agencies responsible for deliverables under the Partnership, including:
  - JACS:
    - ACTCS
    - ACT Courts and Tribunals
    - LPP
    - Victim Support ACT (run by Victims of Crime Commissioner)
  - CSD:
    - Children, Youth and Families
  - ACTP
  - Canberra Health Services including
    - Mental Health, Justice Health and Alcohol and Drug Services
  - Legal Aid ACT
  - Aboriginal Legal Service (NSW/ACT)
  - ACT Aboriginal and Torres Strait Islander Elected Body.

The Caucus is a process used successfully by the Victorian Government to allow the local Aboriginal and Torres Strait Islander community to provide regular advice on the Victorian Aboriginal Justice Agreement. The process was quickly embraced by the Caucus as a platform for monitoring and contributing to the success of the Partnership.

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Progress on action items has changed since the Annual Report figures (p.29) were compiled. As at the last reporting period (September 2018) the Aboriginal and Torres Strait Islander Elected Body raised concerns in relation to 13 remaining actions that it considered to be stalled or not likely to be delivered in the term of the partnership.

## ATTACHMENT A

### STALLED ACTIONS

	ACTION No.	ACTION	LEAD AGENCY	COMMENTS
1	1.2.1	Develop specific programs for Aboriginal & Torres Strait Islander adult offenders under ACT Corrective Services supervision		ATSIEB continue to meet with various groups and work areas with this portfolio to progress and assess progress and to pursue opportunities for improvement
2	1.5.1	Review policies & practices on the management of Aboriginal & Torres Strait Islander clients to reduce barriers to accessing support services – Bail Support Program	JACS ATSIEB	ATSIEB will continue to review the impact of the Bail Support Program and other relevant programs to assist in continuous improvement against measures
3	1.6.1	Reduce custody rates of Aboriginal & Torres Strait Islander people through the improved use of the Front Up program <ul style="list-style-type: none"> <li>• Year 1 – 10 people</li> <li>• Year 2 – 15 people</li> <li>• Year 3 – 20 people</li> </ul>	ACT Policing	ACT Magistrates will only accept persons who have an outstanding First Instance Warrant. Those in breach of bail are not considered to be eligible for Front Up. Discussions to continue with Chief Magistrate
4	1.7.2	Refer all eligible Aboriginal & Torres Strait Islander young people & their families to CYFSP.	CSD (Youth Justice) ATSIEB	ATSIEB actively monitoring and providing advice on the process
5	1.7.3	Ensure all eligible Aboriginal & Torres Strait Islander people under youth justice orders have a case plan that includes cultural care planning	CSD (Youth Justice) ATSIEB	The issue with this measure is the compliance and quality assurance of care plans. ATSIEB and CSD will continue to work together for continuous improvement in this space  The recent release of the 'Our Booris, Our Way' report speaks to this matter and in particular the quality of the cultural care plans and recommends improved quality should be monitored

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## QUESTION TIME BRIEF

6	1.7.5	Progress development of culturally appropriate services and programs for Aboriginal & Torres Strait Islander youth involved in or 'at risk' of involvement with the youth system "via the Aboriginal & Torres Strait Islander Programs & Services Coordination Committee"	CSD, in collaboration with ATSIEB	ATSIEB is not aware of the Aboriginal & Torres Strait Islander Programs & Services Coordination Committee
7	1.10.1	Reduce to number of Aboriginal & Torres Strait Islander people arrested using police discretion	ACT Policing ATSIEB	ATSIEB looks forward to developing a relationship with the new CPO (when appointed) and will continue to support the community relationship work being undertaken by ACT Policing
8	1.10.2	Increase the use of cautions for Aboriginal & Torres Strait Islander people using police discretion	ACT Policing ATSIEB	ACT Policing remains committed to the reduction of Aboriginal & Torres Strait Islander people in the criminal justice system, whenever practicable. ACT Policing must consider factors such as seriousness of the offence, full & frank admissions, accepting responsibility circumstances of the offence, public interest & victim impact.
9	1.10.3	Ensure the use of alternative options to custody for intoxicated Aboriginal & Torres Strait Islander people, using police discretion	ATSIEB	ATSIEB understands that a significant barrier in this measure is the availability of places to divert people to. This is a matter for the ACT Government and JACS to consider and should be an important part of any future Aboriginal & Torres Strait Islander Justice Partnership under the renewed ACT Aboriginal & Torres Strait Islander Agreement
10	1.11.1	Develop & implement a sustainable model for the delivery of coordinated support services for Aboriginal & Torres Strait Islander people in the criminal justice system	JACS ATSIEB	Many of the support services delivered to people in custody are directly impacted by the time participants are able to attend. While many are connected to programs, staff availability to take them to programs and the operational requirements at the AMC are impacting on the quality and effectiveness of the suite of

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**QUESTION TIME BRIEF**

				<p>programs. This coordination issue needs to be addressed.</p> <p>ATSIEB is unable to comment as to whether the coordination of these programs and services has improved since the last reporting period</p>
11	2.2	<p>Ensure funding outputs of Service Funding Agreements for the delivery of justice-relates services to Aboriginal &amp; Torres Strait Islander adults and young people are strategically aligned to provide maximum benefit</p> <ul style="list-style-type: none"> <li>• Health Assessments for Aboriginal &amp; Torres Strait Islander detainees accessing Winnunga services in AMC</li> <li>• GP Mental Health Care Plans and 24focused psychological strategies for detainees, where required.</li> <li>• Coordinate and care planning for chronic conditions for detainees, where required</li> <li>• Standard GP consultations for detainees accessing Winnunga</li> <li>• Holistic, multidisciplinary and culturally appropriate care through conferencing</li> <li>• Conduct regular Governance Reference Group meetings with ACT Health and ACT Corrective Services</li> </ul>	<p>JACS          CSD (Youth Justice)          ACT Health</p>	<p>ATSIEB do not believe this has been demonstrated especially in relation to Health matters</p>
12	2.4.1	<p>Develop culturally appropriate alcohol and</p>	<p>Mental Health</p>	<p>ATSIEB most recently, through the hearings process, are not satisfied</p>

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## QUESTION TIME BRIEF

		other drugs rehabilitation programs and services	Justice Health AOD Services, in collaboration with ATSIEB	that this measure has been actioned at all
13	3.1	Implement an integrated case management system that is capable of capturing and reporting on Aboriginal & Torres Strait Islander data related to matters before the Courts	JACS ACT Law Courts & Tribunals	The annual reporting of relevant criminal statistics will not be able to be implemented until after ICMS Stage 3 is implemented and a full year of data is collected

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TRIM Ref: 2018/000083-042

**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: OFFICIAL VISITOR REVIEW****Talking points:**

- The Official Visitor scheme has been in place for five years (since 1 September 2013).
- A number of reforms have changed the way Official Visitors (OVs) do their work, including:
  - the rollout of the National Disability Insurance Scheme;
  - increased procedural safeguards in the *Mental Health Act 2015*;
  - the development of an ACT Inspectorate for Custodial Services and;
  - the expected ratification of the Optional Protocol for the Convention Against Torture of the Australian Government.
- In March 2017, I asked the Justice and Community Safety Directorate (JACS) to undertake a formal review (the review) of the scheme. The terms of reference of the review were drafted in consultation with the Public Trustee and Guardian (PTG), relevant directorates, members of the Official Visitor Board (the Board) and the OVs.
- The purpose of the review was to determine whether the Official Visitor scheme was achieving its purpose of providing independent oversight of visitable places, increasing transparency in visitable places and reporting to Government about conditions and concerns in visitable places.
- The Review commenced in May 2017. The final report was completed in November 2017. The Government has since sought the views of OVs on the final report, and is continuing to consider the Review's recommendations.
- The review found that OVs are valued and trusted, particularly around the way they assist eligible people to resolve day to day issues.
- However, the consultation identified that there is no clarity or shared understanding about the role of the OVs even amongst the OVs themselves.

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- It was also evident that OVs require more support in the form of induction, training and professional development (including debriefing), and guidelines about performing their role. The review identified some clear areas for improvement to the scheme with recommendations relating to governance, the OVs mandate, recruitment, workloads, and accountability measures
- Key amongst these recommendations was a proposal to relocate the administrative centre of OVs from the PTG to the ACT Human Rights Commission (HRC), and appoint a full time OV Coordinator to address governance, administrative, communication and capacity development needs.

#### Next steps

- Before the end of the year, JACS will coordinate a cross government working group to consider the recommendations and implementation issues, to inform Government's consideration of its response to the review.
- On 16 November 2018, officers from JACS met with Official Visitors at their annual training day to update them on the implementation of the recommendations of the review.
- I look forward to their contribution to this work and their ongoing service to the Territory in these important oversight roles.

#### Key Information

- The Official Visitor Scheme is primarily administered out of the office of the PTG. The PTG chairs the Board which has statutory functions for the training, coordination and support of the official visitors.
- Official Visitors work with varying levels of co-operation, assistance and support from those areas of Government or community service entities that administer the visitable places where official visitors have rights of access and investigation.
- There are OVs for the:
  - *Children and Young People Act 2008* (two OVs, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Corrections Management Act 2007* (three OVs, one of whom is an Aboriginal and Torres Strait Islander person);
  - *Disability Services Act 1991* (two OVs);
  - *Housing Assistance Act 2007* (one OV); and

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- *Mental Health Act 2015* (four OVs).
- The OVs for one operational Act are empowered to assist the responsible OVs for other Acts if asked (under section 18 of the *Official Visitors Act 2012*).
- The review's methodology included:
  - Directly contacting 46 people and organisations including, advisory bodies, relevant Government directorates and the HRC;
  - Sending 182 letters to registered service providers in the areas of disability, children and young people and homelessness;
  - Directly emailing detainees at the Alexander Maconochie Centre; and
  - Holding forums and a range of meetings with organisations and individuals.

### **Background Information**

- An ACT OV tasked with monitoring children in custody resigned in February 2017 on the basis that his complaints were 'not being taken seriously'. The OV, Mr Bill Bashford, questioned the independence of OVs who must report to the Community Services Directorate (CSD). The OV resigned over a complaint he submitted to Child and Youth Protection Service (CYPS) about a child in foster care **Sch 2 s 2.2 (a)(ii)** **█** CYPS responded to the Visitor by informing him the complaint had been handled in accordance with their internal procedures. CYPS would not share any further information with the Official Visitor.
- CSD did not provide the OV with further information because foster care was beyond the remit of the OVs responsibility. CYPS were therefore legally restricted from sharing information with the OV.
- Due to competing priorities, the implementation of the Government's response to the OV review has not been progressed, however JACS will commence this work before the end of the year, with a view to finalising work on the review by mid 2019.
- A working group is being established and OVs have been invited to participate. The first meeting will be held in December 2018.

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**Portfolio:** Justice, Consumer Affairs & Road Safety**ISSUE: RETIREMENT VILLAGES****Talking points:**

- The *Retirement Villages Legislation Amendment Bill 2018* (the Bill) is scheduled for introduction in the November 2018 sittings.
- The Bill implements a second tranche of recommendations which came out of the 2015-16 review of the *Retirement Villages Act 2012*.
- The Bill makes a range of amendments which will:
  - remove administrative duplication and streamline budget processes for unit titled retirement villages under the Retirement Villages Act and the *Unit Titles (Management) Act 2011*
  - restore a default voting procedure of ‘one vote per unit’. Individual villages will be able to restore a ‘one vote per person’ voting procedure by passing a special resolution.
  - provide access to an enforceable conciliation process to manage complaints about service provision under the Retirement Villages Act through the Human Rights Commission.
  - clarify the definition of the terms ‘capital item’ and ‘capital replacement’.
  - allow sellers of units in unit-titled retirement villages by allowing certain due-diligence documents to be provided at a later stage of the sales process. Failure to provide these documents within the required timeframes is a strict liability offence carrying a maximum penalty of ten penalty units.
- The Bill has been developed with the assistance of the Review Advisory Group – a Group of key stakeholders which represents residents and operators of retirement villages, advocacy groups and other relevant bodies. It includes members of the ACT Retirement Villages Residents Association, the ACT Property Council Retirement Living Committee, the Human Rights Commission, Access Canberra, the Council on the Ageing ACT, representatives of unit-titled retirement villages and the ACT Law Society.

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- The Government has conducted targeted stakeholder consultation on the Bill.
- Officers of the Justice and Community Safety Directorate (JACS) met with residents of IRT Kangara Waters, Goodwin Monash and Bellerive Retirement Village to discuss the contents of the Bill. Approximately 100 people participated in these consultation meetings.
- Nine written submissions were received about the contents of the Bill. Feedback from this consultation informed the development of the legislation.
- Definitions of capital maintenance and capital replacement were a major area of concern in the RVA Review and the targeted consultation with retirement villages. Commencement of the Bill has been delayed to allow time for guidelines addressing the distinction between capital maintenance and capital replacement to be finalised.
- On 12 November 2018 I convened a roundtable of the Review Advisory Group to finalise the Bill.

### Greiner Review

- I am aware of the *Greiner Review Report* on retirement villages, which was commissioned by the NSW Government.
- The *Greiner Review Report* was publicly released along with a Government response in June 2018. The report makes 17 recommendations to improve the NSW legislative framework and operational practices of the industry and regulator. The NSW Government has announced it will accept most of the recommendations, with the rest being accepted in principle.
- The ACT Government will give further consideration to the recommendations of the *Greiner Review Report*.

### **Key Information**

- The Review Advisory Group reconvened in 2017 to consider the second stage of recommendations. A sub-group was also convened to consider issues relating to unit-titled retirement villages.
- JACS is continuing to engage with stakeholders representing residents and operators of unit titled retirement villages.

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**Background Information**

- The 2016 review of the Retirement Villages Act included first and second stage recommendations. The review was conducted with the assistance of the Review Advisory Group.
- The first stage reforms commenced on 16 December 2016.
- The Legislative and Governance Forum on Consumer Affairs (CAF) recently conducted an investigation into best practice regulation of retirement villages in Australia, led by Consumer Affairs Australia and New Zealand (CAANZ).
- The CAANZ progress report, finalised and circulated in May 2018, recommended that the investigation be concluded. This report is **not** publicly available.
- The progress report uncovers common issues identified across jurisdictions, including difficulties in understanding contracts and payment, power imbalances between operators and residents, and unfair or misleading conduct by village operators.
- The CAANZ investigation has determined that States and Territories are best placed to develop best practice regulation.

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**Portfolio/s:** Social Inclusion and Equality  
Justice, Consumer Affairs and Road Safety

**ISSUE:** **Exceptions for Religious Schools in the *Discrimination Act 1991***

**Talking points:**

- On 2 November 2018, we introduced a Bill to the Legislative Assembly to amend the Discrimination Act to provide greater protection for students and staff from discrimination in religious educational institutions.
- The amendment introduced in the Assembly seeks to better support ACT students, teachers and other schools staff to live a life free from discrimination, by removing permission for religious schools to discriminate on the basis of sexuality, gender identity, race, pregnancy or intersex status.
- The replacement exception will only allow schools to discriminate on the basis of religious conviction – to ensure preference can be given to students and teachers of the religion being taught at a particular school.

Summary of the Bill

- In developing the Bill, careful consideration was given to the right to religious freedom and the rights of parents to send their child to a school that conforms to their religious beliefs. These are important rights protected under the *Human Rights Act 2004*.
- The right to adopt and hold a religious belief is recognised in international law as an absolute right, and should not be subject to interference.
- However, the manifestation of religious beliefs affects others, and may be subject to reasonable limitations to achieve a legitimate objective.
- The Bill strikes an appropriate balance between equality rights, the rights of children and young people and the right to religious freedom.
- It will not be unlawful for religious educational institutions to discriminate on the grounds of the student's religious conviction in the

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process of admission, provided that the school has a publicly available admissions policy. It does not permit discrimination against students on any other ground, and once a student is admitted, any discrimination will be unlawful.

- It will also only be lawful for religious educational institutions to discriminate in employment and contracting on the grounds of the religious conviction of the staff member (again where the school has a publicly available policy). This exception respects the freedom of religious schools to employ staff who share a relevant religious conviction as part of a faith-based school community. It would allow an Islamic school to employ teachers who share the Muslim faith for example.
- However, this exception will not allow schools to discriminate against staff on the basis of other protected attributes such as their sexuality or relationship status, even if the discrimination is also related to religious conviction. For example, if a staff member at a religious school is treated unfavourably because they are gay, or because they are in a same sex relationship, this would be unlawful under the *Discrimination Act* and the staff member could make a complaint to the ACT Human Rights Commission.

#### Why was the Bill developed?

- As a human rights jurisdiction, the ACT is committed to ongoing reforms to promote the rights of all Canberrans.
- Just as we are committed to ensuring freedom of religion, so too are we committed to ensuring the rights of children and the right to equality for all Canberrans.
- The Bill was developed to address widespread public concerns raised in the wake of the leaked recommendations of the Ruddock religious freedom review. These recommendations highlighted the potential under existing laws for religious educational institutions to rely on broad exceptions, which could allow them to discriminate against students and staff on the basis of attributes such as sexuality and relationship status.
- Our laws send an important message about our values as a community, and the existence of a broad exception from discrimination in the

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context of religious schools is not consistent with our values as a progressive and inclusive Territory. It is not compatible with the human rights of vulnerable children and young people to the protection they require, and the rights of all members of our community to equality.

- While some religious educational institutions have raised concerns about removing broad exceptions, we are also hearing strong voices from faith-based schools in the ACT, who make it very clear that they have no intention or desire to discriminate against students or teachers in relation to attributes such as sexuality or relationship status. These schools are happy to have the law clarified to ensure that all students and teachers feel valued and supported.
- These changes echo the expectations of our progressive and inclusive community, and they are a statement of support and care for our young people, families and teachers. They also reflect the commitment of this Government to achieve our goal of Canberra being Australia's most LGBTIQ welcoming and inclusive city.

#### Pace of reform

- I make no apology for acting swiftly to reassure our ACT community that discrimination against staff and students on the grounds of sexuality, gender identity, or any other protected attribute will not be accepted here.
- We have chosen to follow a safe and tested path, as the limited exception that we have adopted in this Bill is modelled on a law that has been in existence for many years in Tasmania, and has operated effectively in that jurisdiction.
- While the focus on public debate has been on discrimination on the grounds of sexuality and same sex relationships, the Bill also provides greater protection for students and staff in religious educational institutions from discrimination on a wide range of grounds. These protected attributes include race, sex, pregnancy, disability and attributes such as being divorced or separated or a victim of family violence.

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### Broader reform agenda

- These amendments are one step in a broader commitment to examine the entire exceptions framework under the *Discrimination Act*. We are committed to undertaking an audit of ACT laws to assist us to identify any other areas of discrimination against LGBTIQ canberrans in our existing legislation, and to develop a reform package accordingly.
- In the ACT we recognise that inclusion benefits us all and creates a strong, vibrant and harmonious community. It is a shared goal that we can all work towards. This Bill is another step towards inclusion and equality.

### **Key Information**

- The Commonwealth and all states and territories retain exceptions in their anti-discrimination legislation. Key among these exceptions are those offered to religious organisations, including religious schools.

### **Background Information**

- In the wake of the majority “yes” vote to Australian plebiscite on same-sex marriage, the Australian Government commissioned a review into religious freedoms in Australia. Recommendations from this review leaked in the week beginning 8 October 2018.
- The review’s recommendation for the Australian Government to consolidate the ability of religious educational institutions to discriminate against employees and prospective students on the grounds of their sexuality or gender identity sparked widespread community disagreement.
- The existing ACT provisions that enable religious institutions to discriminate against current or prospective employees and students are within s 33 of the *Discrimination Act 1991* (ACT).
- The extent of the operation of this section is unclear. The ACT Human Rights Commission has reported few instances of it being relied upon in formal complaints.

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